

Senate File 2364 - Enrolled

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SENATE FILE 2364

AN ACT

RELATING TO VARIOUS MATTERS UNDER THE PURVIEW OF THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE INCLUDING THE SECURITIES AND REGULATED INDUSTRIES BUREAU, INSURANCE PREMIUM TAXES, THE UNIFORM SECURITIES ACT, INSURANCE DIVISION PROCEDURES INCLUDING FEES AND AN APPROPRIATION, REGULATION OF INSURANCE COMPANIES AND OTHER ENTITIES INCLUDING ADMINISTRATIVE PENALTIES, MOTOR VEHICLE SERVICE CONTRACTS, COUNTY AND STATE MUTUAL INSURANCE ASSOCIATIONS, RECIPROCAL OR INTERINSURANCE INSURERS, CONSOLIDATION, MERGER AND REINSURANCE CONTRACTS, INSURANCE HOLDING COMPANY SYSTEMS, AND CEMETERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 11.6, subsection 1, paragraph b, subparagraph (6), Code Supplement 2005, is amended to read as follows:

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 52. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

NEW SUBSECTION. 53. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

Sec. 3. Section 432.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not including the gross premiums written, assessments, and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 4. Section 432.5, Code 2005, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums ~~received~~ written during the previous calendar year for risks placed in this state. A resident or nonresident producer shall report and pay the taxes on the premiums for risks that the producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. Section 502.102, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) An industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. } 1813(c)(2), or any successor federal statute.

Sec. 6. Section 502.102, subsection 27A, Code Supplement 2005, is amended to read as follows:

27A. "Securities and regulated industries bureau" means the securities and regulated industries bureau of the

3 4 insurance division of the department of commerce.
3 5 Sec. 7. Section 502.201, subsection 8A, paragraph b,
3 6 unnumbered paragraph 1, Code 2005, is amended to read as
3 7 follows:
3 8 A mutual or cooperative organization, including a
3 9 cooperative association organized in good faith under and for
3 10 any of the purposes enumerated in chapter 497, 498, 499, ~~or~~
3 11 501, or 501A, that deals in commodities or supplies goods or
3 12 services in transactions primarily with and for the benefit of
3 13 its members, if all of the following apply:
3 14 Sec. 8. Section 502.304, subsection 2A, Code 2005, is
3 15 amended to read as follows:
3 16 2A. REPORTS AND EXAMINATIONS. The administrator may by
3 17 rule or order require as a condition of registration by
3 18 qualification, and at the expense of the applicant or
3 19 registrant, that a report by an accountant, engineer,
3 20 appraiser, or other professional person be filed. The
3 21 administrator may also designate one or more employees of the
3 22 securities and regulated industries bureau to make an
3 23 examination of the business and records of an issuer of
3 24 securities for which a registration statement has been filed
3 25 by qualification, at the expense of the applicant or
3 26 registrant.
3 27 Sec. 9. Section 502.412, subsection 2, paragraph a, Code
3 28 Supplement 2005, is amended to read as follows:
3 29 a. Institute a revocation or suspension proceeding under
3 30 this subsection based solely on an order issued under a law of
3 31 another state that is reported to the administrator or a
3 32 designee of the administrator more than one year after the
3 33 date of the order on which it is based.
3 34 Sec. 10. Section 502.412, subsection 3, Code Supplement
3 35 2005, is amended to read as follows:
4 1 3. DISCIPLINARY PENALTIES == REGISTRANTS. If the
4 2 administrator finds that the order is in the public interest
4 3 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
4 4 ~~or~~ "l", and or "m", authorizes the action, an order under this
4 5 chapter may censure, impose a bar, or impose a civil penalty
4 6 in an amount not to exceed a maximum of five thousand dollars
4 7 for a single violation or five hundred thousand dollars for
4 8 more than one violation, on a registrant, and, if the
4 9 registrant is a broker-dealer or investment adviser, a
4 10 partner, officer, director, or person having a similar status
4 11 or performing similar functions, or a person directly or
4 12 indirectly in control, of the broker-dealer or investment
4 13 adviser.
4 14 Sec. 11. Section 502.510, subsection 1, paragraph e, Code
4 15 2005, is amended to read as follows:
4 16 e. If the basis for relief under this section may have
4 17 been a violation of section 502.509, subsection 3 5, an offer
4 18 to reimburse in cash the consideration paid for the advice and
4 19 interest at the legal rate from the date of payment.
4 20 Sec. 12. Section 502.601, subsection 1, Code Supplement
4 21 2005, is amended to read as follows:
4 22 1. ADMINISTRATION. This chapter shall be administered by
4 23 the commissioner of insurance of this state. The
4 24 administrator shall appoint a deputy administrator who shall
4 25 be exempt from the merit system provisions of chapter 8A,
4 26 subchapter IV. The deputy administrator is the principal
4 27 operations officer of the securities and regulated industries
4 28 bureau of the insurance division of the department of
4 29 commerce. The deputy administrator is responsible to the
4 30 administrator for the routine administration of this chapter
4 31 and the management of the securities and regulated industries
4 32 bureau. In the absence of the administrator, whether because
4 33 of vacancy in the office, by reason of absence, physical
4 34 disability, or other cause, the deputy administrator shall be
4 35 the acting administrator and shall, for that period, have and
5 1 exercise the authority conferred upon the administrator. The
5 2 administrator may by order delegate to the deputy
5 3 administrator any or all of the functions assigned to the
5 4 administrator under this chapter. The administrator shall
5 5 employ officers, attorneys, accountants, and other employees
5 6 as needed for the administration of this chapter.
5 7 Sec. 13. Section 502A.1, subsection 1, Code 2005, is
5 8 amended to read as follows:
5 9 1. "Administrator" means the administrator of the
5 10 securities and regulated industries bureau of the insurance
5 11 division of the department of commerce.
5 12 Sec. 14. Section 502A.15, subsection 1, Code 2005, is
5 13 amended to read as follows:
5 14 1. This chapter shall be administered by the administrator

5 15 of the securities and regulated industries bureau of the
5 16 insurance division of the department of commerce.
5 17 Sec. 15. Section 505.16, subsection 2, Code 2005, is
5 18 amended to read as follows:

5 19 2. The insurance commissioner shall approve rules for
5 20 carrying out this section including rules relating to the
5 21 preparation of information to be provided before and after a
5 22 test and the protection of confidentiality of personal and
5 23 medical records of insurance applicants and policyholders.
5 24 The rules shall require a person engaged in the business of
5 25 insurance who receives results of a positive human
5 26 immunodeficiency virus test of an insurance applicant or
5 27 policyholder to report those results to a physician or
5 28 alternative testing site of the applicant's or policyholder's
5 29 choice, or if the applicant or policyholder does not choose a
5 30 physician or alternative testing site to receive the results,
5 31 to the Iowa department of public health.

5 32 Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.
5 33 A person committing any act governed by chapter 502, 502A,
5 34 505 through 523G, or 523I constitutes consent by that person
5 35 to the jurisdiction of the commissioner of insurance and the
6 1 district courts of this state.

6 2 Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.
6 3 The commissioner of insurance shall have the authority to
6 4 appoint as a hearing officer a designee or an independent
6 5 administrative law judge. Duties of a hearing officer shall
6 6 include hearing contested cases arising from conduct governed
6 7 by chapters 502, 502A, 505 through 523G, and 523I. Sections
6 8 10A.801 and 17A.11 do not apply to the appointment of a
6 9 designee or an administrative law judge pursuant to this
6 10 section.

6 11 Sec. 18. NEW SECTION. 505.29 SERVICE OF PROCESS == FEE.
6 12 The commissioner of insurance, pursuant to rules adopted
6 13 pursuant to chapter 17A, may collect a reasonable fee each
6 14 time process is served on the commissioner as allowed by law.
6 15 Fees collected by the commissioner under this section shall be
6 16 used and are appropriated to the insurance division to offset
6 17 the costs of receiving such service of process. The party to
6 18 a proceeding causing service of process is entitled to recover
6 19 this fee as costs if the party prevails in the proceeding.

6 20 Sec. 19. Section 507.10, subsection 5, paragraph b, Code
6 21 2005, is amended to read as follows:

6 22 b. The commissioner is not prevented from disclosing the
6 23 content of an examination report, preliminary examination
6 24 report or results, or any matter relating to the report, to an
6 25 insurance department of any other state or country, to the
6 26 national association of insurance commissioners, or to law
6 27 enforcement officials of this or any other state or an agency
6 28 of the federal government at any time, so long as such agency
6 29 or office receiving the report, or matters relating to the
6 30 report, agrees in writing to maintain the confidentiality of
6 31 the report or such matters in a manner consistent with this
6 32 chapter.

6 33 Sec. 20. Section 507.14, Code 2005, is amended to read as
6 34 follows:

6 35 507.14 CONFIDENTIAL DOCUMENTS == EXCEPTIONS.
7 1 1. A preliminary report of an examination of a domestic or
7 2 foreign insurer, and all notes, work papers, or other
7 3 documents related to an examination of an insurer are ~~not~~
7 4 ~~public confidential~~ records under chapter 22 except when
7 5 sought by the insurer to whom they relate, an insurance
7 6 regulator of another state, or the national association of
7 7 insurance commissioners, and shall be privileged and
7 8 confidential in any judicial or administrative proceeding
7 9 except any of the following:
7 10 ~~1-~~ a. An action commenced by the commissioner under
7 11 chapter 507C.
7 12 ~~2-~~ b. An administrative proceeding brought by the
7 13 insurance division under chapter 17A.
7 14 ~~3-~~ c. A judicial review proceeding under chapter 17A
7 15 brought by an insurer to whom the records relate.
7 16 ~~4-~~ d. An action or proceeding which arises out of the
7 17 criminal provisions of the laws of this state or the United
7 18 States.
7 19 ~~5-~~ e. An action brought in a shareholders' derivative
7 20 suit against an insurer.
7 21 ~~6-~~ f. An action brought to recover moneys or to recover
7 22 upon an indemnity bond for embezzlement, misappropriation, or
7 23 misuse of insurer funds.
7 24 2. A report of an examination of a domestic or foreign
7 25 insurer which is preliminary under the rules of the division

7 26 is ~~not a public~~ a confidential record under chapter 22 except
7 27 when sought by the insurer to which the report relates or an
7 28 insurance regulator of another state, and is privileged and
7 29 confidential in any judicial or administrative proceeding.

7 30 3. All work papers, notes, recorded information,
7 31 documents, market conduct annual statements, and copies
7 32 thereof that are produced or obtained by or disclosed to the
7 33 commissioner or any other person in the course of analysis by
7 34 the commissioner of the financial condition or market conduct
7 35 of an insurer are confidential records under chapter 22 and
8 1 shall be privileged and confidential in any judicial or
8 2 administrative proceeding except any of the following:

8 3 a. An action commenced by the commissioner under chapter
8 4 507C.

8 5 b. An administrative proceeding brought by the insurance
8 6 division under chapter 17A.

8 7 c. A judicial review proceeding under chapter 17A brought
8 8 by an insurer to whom the records relate.

8 9 d. An action or proceeding which arises out of the
8 10 criminal provisions of the laws of this state or the United
8 11 States.

8 12 4. Confidential documents, materials, information,
8 13 administrative or judicial orders, or other actions may be
8 14 disclosed to a regulatory official of any state, federal
8 15 agency, or foreign country provided that the recipients are
8 16 required, under their law, to maintain their confidentiality.
8 17 Confidential records may be disclosed to the national
8 18 association of insurance commissioners provided that the
8 19 association certifies by written statement that the
8 20 confidentiality of the records will be maintained.

8 21 5. A financial statement filed by an employer self=
8 22 insuring workers' compensation liability pursuant to section
8 23 87.11, or the working papers of an examiner or the division in
8 24 connection with calculating appropriate security and reserves
8 25 for the self-insured employer are ~~not public~~ confidential
8 26 records under chapter 22 except when sought by the employer to
8 27 which the financial statement or working papers relate or an
8 28 insurance or workers' compensation self=insurance regulator of
8 29 another state, and are privileged and confidential in any
8 30 judicial or administrative proceeding. The financial
8 31 information of a nonpublicly traded employer which self=
8 32 insures for workers' compensation liability pursuant to
8 33 section 87.11 is protected as proprietary trade secrets to the
8 34 extent consistent with the commissioner's duties to oversee
8 35 the security of self-insured workers' compensation liability.

9 1 6. Analysis notes, work papers, or other documents related
9 2 to the analysis of an insurer are ~~not public~~ confidential
9 3 records under chapter 22.

9 4 Sec. 21. Section 507A.4, Code 2005, is amended by adding
9 5 the following new subsection:

9 6 NEW SUBSECTION. 10. a. A self-funded health benefit plan
9 7 sponsored by an employer in this state under the federal
9 8 Employee Retirement Income Security Act of 1974, as codified
9 9 in 29 U.S.C. } 1169, which provides health benefits to
9 10 independent contractors of the employer and to spouses and
9 11 dependents of the independent contractors, if the plan is
9 12 granted a waiver from the provisions of this chapter by the
9 13 commissioner and meets all of the following conditions:

9 14 (1) There is a written contract between the sponsor of the
9 15 health benefit plan and the independent contractor which
9 16 establishes the relationship between the parties to the
9 17 contract and provides for the personal services to be provided
9 18 by the independent contractor to the sponsor of the health
9 19 benefit plan pursuant to the contract.

9 20 (2) The personal services to be provided by the
9 21 independent contractor pursuant to the contract are directly
9 22 related to the principal business of the sponsor of the health
9 23 benefit plan.

9 24 (3) The contract provides that the independent contractor
9 25 will provide services to the sponsor of the health benefit
9 26 plan on an exclusive basis.

9 27 (4) The inclusion of the independent contractor in the
9 28 sponsor's health benefit plan is incidental to the contractual
9 29 relationship between the sponsor of the health benefit plan
9 30 and the independent contractor.

9 31 (5) Independent contractors and their spouses and
9 32 dependents included in an employer-sponsored health benefit
9 33 plan do not in total equal more than forty-nine percent of the
9 34 total persons covered by the health benefit plan.

9 35 (6) The health benefit plan is administered by an
10 1 authorized insurer or an authorized third-party administrator.

10 2 b. The sponsor of the health benefit plan shall file an
10 3 application for waiver from the provisions of this chapter
10 4 with the commissioner as prescribed by the commissioner and
10 5 shall file periodic statements and information as required by
10 6 the commissioner. The commissioner shall adopt rules pursuant
10 7 to chapter 17A implementing this subsection. All statements
10 8 and information filed with or disclosed to the commissioner
10 9 pursuant to this subsection are confidential records pursuant
10 10 to chapter 22.

10 11 c. If at any time the commissioner determines that a
10 12 health benefit plan for which a waiver has been granted does
10 13 not meet all of the conditions of paragraph "a", and the rules
10 14 adopted by the commissioner under paragraph "b", the
10 15 commissioner may terminate the waiver granted to the health
10 16 benefit plan.

10 17 d. A self-funded employer-sponsored health benefit plan
10 18 which has a valid waiver from the provisions of this chapter
10 19 shall not be considered any of the following:

10 20 (1) An insurance company or association of any kind or
10 21 character under section 432.1.

10 22 (2) A member insurer of the Iowa life and health insurance
10 23 guaranty association as defined in section 508C.5, subsection
10 24 8.

10 25 (3) A carrier under chapter 513B.

10 26 (4) A member of the Iowa individual health benefit
10 27 reinsurance association under section 513C.10.

10 28 (5) An entity subject to chapter 514C.

10 29 (6) A multiple employer welfare arrangement as defined in
10 30 subsection 9.

10 31 e. A self-funded employer-sponsored health benefit plan
10 32 which has received a waiver from the provisions of this
10 33 chapter shall be considered to be a self-funded employer=
10 34 sponsored health benefit plan under the federal Employee
10 35 Retirement Income Security Act of 1974, as codified in 29
11 1 U.S.C. } 1169, and not subject to this title so long as the
11 2 waiver is in effect.

11 3 f. The provision of health benefits to an independent
11 4 contractor by a self-funded employer-sponsored health benefit
11 5 plan which meets all of the conditions of paragraph "a" shall
11 6 not in and of itself create an employer-employee relationship
11 7 between the independent contractor and the sponsor of the
11 8 health benefit plan.

11 9 Sec. 22. Section 507A.9, subsection 1, Code 2005, is
11 10 amended to read as follows:

11 11 1. ~~Effective with For~~ all premiums collected during the
11 12 calendar year ~~1967~~, except premiums on lawfully procured
11 13 surplus lines insurance, every unauthorized insurer shall pay
11 14 to the commissioner of insurance before March 1, next
11 15 succeeding the calendar year in which the insurance was so
11 16 effectuated, continued, or renewed a premium tax ~~of two~~
~~11 17 percent of on~~ gross premiums charged for such insurance on
11 18 subjects resident, located, or to be performed in this state
11 19 equal to the applicable percent, as provided in section 432.1.
11 20 Such insurance whether procured through negotiation or an
11 21 application, in whole or in part occurring or made within or
11 22 outside of this state, or for which premiums in whole or in
11 23 part are remitted directly or indirectly from within or
11 24 outside of this state, shall be deemed to be insurance
11 25 procured or continued in this state. The term "premium"
11 26 includes all premiums, membership fees, assessments, dues, and
11 27 any other consideration for insurance. If the tax prescribed
11 28 by this section is not paid within the time stated, the tax
11 29 shall be increased by a penalty of twenty-five percent and by
11 30 the amount of an additional penalty computed at the rate of
11 31 one percent per month or any part thereof from the date such
11 32 payment was due to the date paid.

11 33 Sec. 23. Section 507B.4, Code 2005, is amended by adding
11 34 the following new subsections:

11 35 NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either
12 1 of the following events for purposes of surcharging,
12 2 declining, nonrenewing, or canceling personal lines property
12 3 and casualty insurance coverage or a binder for personal lines
12 4 property and casualty insurance coverage:

12 5 a. An applicant's or insured's inquiry into the type or
12 6 level of coverage of a policy, or an inquiry into whether a
12 7 policy will cover a loss.

12 8 b. An insured's inquiry regarding coverage of a policy for
12 9 a loss if the insured does not file a claim.

12 10 NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to
12 11 insure a property not previously owned by an applicant for
12 12 personal lines property and casualty insurance, based solely

12 13 on the loss history of a previous owner of the property,
12 14 unless the insurer can provide evidence that the previous
12 15 owner did not repair damage to the property.
12 16 NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY.
12 17 Failing to inform an applicant at the time that an application
12 18 for personal lines property and casualty insurance is made, in
12 19 writing or in the same medium as the application is made, that
12 20 the insurer will consider the applicant's or insured's claims
12 21 history in determining whether to decline, cancel, nonrenew,
12 22 or surcharge such a policy, and that a claim made by an
12 23 insured will be reported to an insurance support organization.
12 24 NEW SUBSECTION. 15. INFORMATION. Failing or refusing to
12 25 furnish any policyholder or applicant, upon reasonable
12 26 request, information to which that individual is entitled.
12 27 Sec. 24. Section 507B.4, Code 2005, is amended by adding
12 28 the following new unnumbered paragraph:
12 29 NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A,
12 30 9B, and 9C, "personal lines property and casualty insurance"
12 31 means insurance sold to individuals and families primarily for
12 32 noncommercial purposes as provided in chapter 522B.
12 33 Sec. 25. NEW SECTION. 507B.4B SUITABILITY.
12 34 1. A person shall not recommend to any individual the
12 35 purchase, sale, or exchange of any annuity contract, or any
13 1 rider, endorsement, or amendment thereto, unless the person
13 2 has reasonable grounds to believe that the recommendation is
13 3 suitable for the individual based on a reasonable inquiry into
13 4 the individual's financial status, investment objectives, and
13 5 other relevant information.
13 6 2. A person engaged in the business of annuities shall
13 7 establish and maintain a system to monitor recommendations
13 8 made, that is reasonably designed to achieve compliance with
13 9 subsection 1.
13 10 3. The commissioner shall adopt rules pursuant to chapter
13 11 17A establishing procedures and standards for implementation
13 12 of the suitability requirements of subsection 1.
13 13 Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.
13 14 Section 505.28 is applicable to hearings required by
13 15 sections 507B.6, 507B.6A, and 507B.7.
13 16 Sec. 27. Section 507C.2, subsection 13, Code Supplement
13 17 2005, is amended by adding the following new unnumbered
13 18 paragraph:
13 19 NEW UNNUMBERED PARAGRAPH. "General assets" does not
13 20 include that portion of the assets of the insurer allocated to
13 21 and accumulated in a separate account established pursuant to
13 22 section 508A.1, unless otherwise provided by the applicable
13 23 policy, annuity, agreement, instrument, or contract. However,
13 24 if any assets allocated to and accumulated in a separate
13 25 account, after the satisfaction of any liabilities with regard
13 26 to the operation of the separate account, are in excess of an
13 27 amount equal to the reserves and other liabilities with
13 28 respect to the separate account, the excess shall be treated
13 29 as part of the general assets of the insurer.
13 30 Sec. 28. Section 507C.42, unnumbered paragraph 1, Code
13 31 2005, is amended to read as follows:
13 32 The priority of distribution of claims from the insurer's
13 33 estate shall be in accordance with the order in which each
13 34 class of claims is set forth. Claims in each class shall be
13 35 paid in full or adequate funds retained for the payment before
14 1 the members of the next class receive any payment. Subclasses
14 2 shall not be established within a class. As used in this
14 3 section, "insurer's estate" means the general assets of the
14 4 insurer. The order of distribution of claims is:
14 5 Sec. 29. Section 507C.42, subsection 2, Code 2005, is
14 6 amended to read as follows:
14 7 2. CLASS 2. Claims under policies, including claims of
14 8 the federal or any state or local government, for losses
14 9 incurred, including third-party claims, claims against the
14 10 insurer for liability for bodily injury or for injury to or
14 11 destruction of tangible property which are not under policies,
14 12 claims of a guaranty association or foreign guaranty
14 13 association, claims under funding agreements as provided in
14 14 section 508.31A, subsection 3, claims for an insufficiency in
14 15 the assets allocated to and accumulated in a separate account
14 16 as provided in section 508A.1, subsection 8, and claims for
14 17 unearned premium. Claims under life insurance and annuity
14 18 policies, whether for death proceeds, annuity proceeds, or
14 19 investment values, shall be treated as loss claims. That
14 20 portion of a loss, indemnification for which is provided by
14 21 other benefits or advantages recovered by the claimant, shall
14 22 not be included in this class, other than benefits or
14 23 advantages recovered or recoverable in discharge of familial

14 24 obligations of support or by way of succession at death or as
14 25 proceeds of life insurance, or as gratuities. A payment by an
14 26 employer to an employee is not a gratuity.

14 27 Sec. 30. Section 507E.5, Code 2005, is amended by striking
14 28 the section and inserting in lieu thereof the following:

14 29 507E.5 CONFIDENTIALITY.

14 30 1. All investigation files, investigation reports, and all
14 31 other investigative information in the possession of the
14 32 bureau are confidential records under chapter 22 except as
14 33 specifically provided in this section and are not subject to
14 34 discovery, subpoena, or other means of legal compulsion for
14 35 their release until opened for public inspection by the
15 1 bureau, or upon the consent of the bureau, or until a court of
15 2 competent jurisdiction determines, after notice to the bureau
15 3 and hearing, that the bureau will not be unnecessarily
15 4 hindered in accomplishing the purposes of this chapter by
15 5 their opening for public inspection. However, investigative
15 6 information in the possession of the bureau may be disclosed,
15 7 in the commissioner's discretion, to appropriate licensing
15 8 authorities within this state, another state or the District
15 9 of Columbia, or a territory or country in which a licensee is
15 10 licensed or has applied for a license.

15 11 2. The commissioner may share documents, materials, or
15 12 other information, including confidential and privileged
15 13 documents, materials, or other information, with other state,
15 14 federal, and international regulatory agencies, with the
15 15 national association of insurance commissioners and its
15 16 affiliates or subsidiaries, and with state, federal, and
15 17 international law enforcement authorities, provided that the
15 18 recipient agrees to maintain the confidential and privileged
15 19 status of the document, material, or other information,
15 20 pursuant to Iowa law.

15 21 3. The commissioner may receive documents, materials, or
15 22 other information, including otherwise confidential and
15 23 privileged documents, materials, or other information, from
15 24 other local, state, federal, and international regulatory
15 25 agencies, the national association of insurance commissioners
15 26 and its affiliates or subsidiaries, and local, state, federal,
15 27 and international law enforcement authorities, and shall
15 28 maintain as confidential and privileged any document,
15 29 material, or other information received with notice or the
15 30 understanding that it is confidential or privileged under the
15 31 laws of the jurisdiction that is the source of the document,
15 32 material, or other information.

15 33 4. The commissioner may enter into agreements governing
15 34 the sharing and use of documents, materials, or other
15 35 information consistent with this section.

16 1 5. An investigator or other staff member of the bureau is
16 2 not subject to subpoena in a civil action concerning any
16 3 matter of which the investigator or other staff member has
16 4 knowledge pursuant to a pending or continuing investigation
16 5 being conducted by the bureau pursuant to this chapter.

16 6 Sec. 31. Section 508.13, Code 2005, is amended to read as
16 7 follows:

16 8 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

16 9 1. On receipt of an application for a certificate of
16 10 authority or renewal of a certificate of authority, fees, the
16 11 deposit provided in section 511.8, subsection 16, and the
16 12 statement, and the statement and evidence of investment of
16 13 foreign companies, all of which shall be renewed annually, by
16 14 the first day of March, the commissioner of insurance shall
16 15 issue a certificate or a renewal of a certificate setting
16 16 forth the corporate name of the company, its home office, that
16 17 it has fully complied with the laws of the state and is
16 18 authorized to transact the business of life insurance for the
16 19 ensuing year, which certificate shall expire on the first day
16 20 of June of the ensuing year, or sooner upon thirty days'
16 21 notice given by the commissioner, of the next annual valuation
16 22 of its policies. Such certificate shall be renewed annually,
16 23 upon the renewal of the deposit and statement by a domestic
16 24 company, or of the statement and evidence of investment by a
16 25 foreign company, and compliance with the conditions above
16 26 required, and be subject to revocation as the original
16 27 certificate.

16 28 2. A company shall submit annually on or before March 1 a
16 29 completed application for renewal of its certificate of
16 30 authority. A certificate of authority shall expire on the
16 31 first day of June next succeeding its issue and shall be
16 32 renewed annually so long as the company transacts business in
16 33 accordance with all legal requirements of the state.

16 34 3. A company that fails to timely file an application for

16 35 renewal of its certificate of authority shall pay an
17 1 administrative penalty of five hundred dollars to the
17 2 treasurer of state for deposit in the general fund of the
17 3 state as provided in section 505.7.

17 4 4. A copy of a certificate of authority, when certified by
17 5 the commissioner, shall be admissible in evidence for or
17 6 against a company, with the same effect as the original.

17 7 Sec. 32. Section 508A.1, Code 2005, is amended by adding
17 8 the following new subsection:

17 9 NEW SUBSECTION. 8. If the assets of an insurer allocated
17 10 to and accumulated in a separate account in connection with
17 11 any policy, annuity, agreement, instrument, or contract, after
17 12 the satisfaction of any liabilities with regard to the
17 13 operation of the separate account, are insufficient to fully
17 14 satisfy the insurer's express obligations under the policy,
17 15 annuity, agreement, instrument, or contract, then claims for
17 16 the unsatisfied portions of the insurer's obligations shall be
17 17 class 2 claims under section 507C.42, subsection 2.

17 18 Sec. 33. Section 509.1, subsection 1, paragraph b, Code
17 19 2005, is amended to read as follows:

17 20 b. The premium for the group ~~life~~ policy shall be paid by
17 21 the policyholder, either wholly from the employer's funds or
17 22 funds contributed by the employer, or partly from such funds
17 23 ~~and partly from funds contributed by the insured employees, or~~
17 24 ~~from both. No A policy, except of group accident and health,~~
17 25 ~~may be issued on which the entire premium is to be derived~~
17 26 ~~from funds contributed by the insured employees. A policy~~

17 27 insurance on which part of the premium is to be derived from
17 28 funds contributed by the insured employees may be placed in
17 29 force only if at least seventy-five percent of the then
17 30 eligible employees, excluding any as to whom evidence of
17 31 individual insurability is not satisfactory to the insurer,
17 32 elect to make the required contributions. A policy on which
17 33 no part of the premium is to be derived from funds contributed
17 34 by the insured employees must insure all eligible employees,
17 35 or all except any as to whom evidence of individual

18 1 insurability is not satisfactory to the insurer. As used in
18 2 this paragraph, "accident and health insurance" does not
18 3 include disability income insurance.

18 4 Sec. 34. Section 509A.15, subsection 1, paragraph d, Code
18 5 2005, is amended to read as follows:

18 6 d. That the governing body has contracted or otherwise
18 7 arranged with a third-party administrator who holds a current
18 8 certificate of registration issued by the commissioner
18 9 pursuant to section 510.21, or with a person not required to
18 10 obtain the certificate as ~~an a third-party~~ administrator as
18 11 defined in section 510.11, subsection 1.

18 12 Sec. 35. Section 509A.15, subsection 4, Code 2005, is
18 13 amended to read as follows:

18 14 4. One or more political subdivisions of the state or one
18 15 or more school corporations maintaining self-insured plans
18 16 with yearly claims that do not exceed ~~one~~ two percent of each
18 17 entity's general fund budget shall be exempt from the
18 18 requirements of this section where the plan insures employees
18 19 for all or part of a deductible, coinsurance payments, drug
18 20 costs, short-term disability benefits, vision benefits, or
18 21 dental benefits.

18 22 The yearly claim amount shall be determined annually on the
18 23 policy renewal date, or an alternative date established by
18 24 rule, by a plan administrator or political subdivision or
18 25 school corporation employee to be designated by the plan
18 26 administrator. The exemption shall not apply for the year
18 27 following a year in which yearly claims are determined to
18 28 exceed ~~one~~ two percent of the political subdivision's or
18 29 school corporation's general fund budget.

18 30 Sec. 36. Section 509B.1, subsection 4, Code 2005, is
18 31 amended by striking the subsection.

18 32 Sec. 37. Section 509B.5, subsection 1, Code 2005, is
18 33 amended to read as follows:

18 34 1. Employers or group policyholders shall notify all
18 35 employees or members of their continuation ~~and conversion~~
19 1 rights within ten days of termination of employment or
19 2 membership. The notice shall be in writing and delivered in
19 3 person or mailed to the person's last known address. However,
19 4 continuation ~~and conversion~~ rights shall not be denied because
19 5 of failure to provide proper notice. After receiving proper
19 6 notice the employee or member may request and shall receive
19 7 continuation ~~or conversion~~ coverage in accordance with this
19 8 chapter within ten days of the request, notwithstanding any
19 9 other time limitation provided by this chapter. Notification
19 10 as provided in this section supersedes section 515.80 as that

19 11 section relates to accident and health insurance.

19 12 Sec. 38. Section 510.11, Code 2005, is amended by striking
19 13 the section and inserting in lieu thereof the following:

19 14 510.11 DEFINITIONS.

19 15 1. "Life or health insurance" includes but is not limited
19 16 to the following:

19 17 a. Individual or group accident and sickness insurance
19 18 providing coverage on an expense-incurred basis.

19 19 b. An individual or group hospital or medical service
19 20 contract issued pursuant to chapter 509, 514, or 514A.

19 21 c. An individual or group health maintenance organization
19 22 contract regulated under chapter 514B.

19 23 d. An individual or group Medicare supplemental policy.

19 24 e. A long-term care policy.

19 25 f. An individual or group life insurance policy or annuity
19 26 issued pursuant to chapter 508, 508A, or 509A.

19 27 2. "Third-party administrator" means a person who collects
19 28 charges or premiums from, or who adjusts or settles claims on,
19 29 residents of this state in connection with life or health
19 30 insurance coverage or annuities other than any of the
19 31 following:

19 32 a. A union or association on behalf of its members.

19 33 b. An insurance company which is either licensed in this
19 34 state or acting as an insurer with respect to a policy
19 35 lawfully issued and delivered by it in and pursuant to the
20 1 laws of a state in which the insurer was authorized to do
20 2 insurance business.

20 3 c. An entity licensed under chapter 514, including its
20 4 sales representatives licensed in this state when engaged in
20 5 the performance of their duties as sales representatives.

20 6 d. A life or health agent or broker licensed in this
20 7 state, whose activities are limited exclusively to the sale of
20 8 insurance.

20 9 e. A creditor on behalf of its debtors with respect to
20 10 insurance covering a debt between the creditor and its
20 11 debtors.

20 12 f. A trust, its trustees, agents, and employees acting
20 13 under the trust, established in conformity with 29 U.S.C. }
20 14 186.

20 15 g. A trust exempt from taxation under section 501(a) of
20 16 the Internal Revenue Code, its trustees, and employees acting
20 17 under the trust.

20 18 h. A custodian, its agents, and employees acting pursuant
20 19 to a custodial account which meets the requirements of section
20 20 401(f) of the Internal Revenue Code.

20 21 i. A bank, credit union, or other financial institution
20 22 which is subject to supervision or examination by federal or
20 23 state banking authorities.

20 24 j. A credit card-issuing company which advances for and
20 25 collects premiums or charges from its credit card holders who
20 26 have authorized it to do so, if the company does not adjust or
20 27 settle claims.

20 28 k. A person who adjusts or settles claims in the normal
20 29 course of the person's practice or employment as an attorney,
20 30 and who does not collect charges or premiums in connection
20 31 with life or health insurance coverage or annuities.

20 32 Sec. 39. Section 510.12, Code 2005, is amended to read as
20 33 follows:

20 34 510.12 WRITTEN AGREEMENT NECESSARY.

20 35 A person shall not act as ~~an~~ a third-party administrator
21 1 without a written agreement between the third-party
21 2 administrator and the insurer, and the written agreement shall
21 3 be retained as part of the official records of both the
21 4 insurer and the third-party administrator for the duration of
21 5 the agreement plus five years. The written agreement shall
21 6 contain provisions which include the requirements of sections
21 7 510.11 through 510.16, except insofar as those requirements do
21 8 not apply to the functions performed by the third-party
21 9 administrator.

21 10 When a policy is issued to a trustee, a copy of the trust
21 11 agreement and any amendments to the trust agreement shall be
21 12 furnished to the insurer by the third-party administrator and
21 13 shall be retained as part of the official records of both the
21 14 insurer and the third-party administrator for the duration of
21 15 the policy plus five years.

21 16 Sec. 40. Section 510.13, Code 2005, is amended to read as
21 17 follows:

21 18 510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

21 19 If an insurer uses the services of ~~an~~ a third-party
21 20 administrator under the terms of a written contract as
21 21 required in section 510.12, payment to the third-party

21 22 administrator of any premiums or charges for insurance by or
21 23 on behalf of the insured shall be deemed to have been received
21 24 by the insurer, and the payment of return premiums or claims
21 25 by the insurer to the third-party administrator shall not be
21 26 deemed payment to the insured or claimant until the payments
21 27 are received by the insured or claimant. This section does
21 28 not limit any right of the insurer against the third-party
21 29 administrator resulting from the third-party administrator's
21 30 failure to make payments to the insurer, insureds, or
21 31 claimants.

21 32 Sec. 41. Section 510.14, Code 2005, is amended to read as
21 33 follows:

21 34 510.14 MAINTENANCE OF INFORMATION.

21 35 ~~Am~~ A third-party administrator shall maintain at its
22 1 principal administrative office for the duration of the
22 2 written agreement referred to in section 510.12 plus five
22 3 years, adequate books and records of all transactions between
22 4 it, insurers, and insured persons. The third-party
22 5 administrator's books and records shall be maintained in
22 6 accordance with prudent standards of insurance recordkeeping.
22 7 The commissioner shall have access to such books and records
22 8 for the purpose of examination, audit, and inspection. Trade
22 9 secrets contained in ~~an~~ a third-party administrator's books
22 10 and records, including but not limited to the identity and
22 11 addresses of policyholders and certificate holders, shall be
22 12 confidential, except the commissioner may use trade secret
22 13 information in any proceeding instituted against the third-
22 14 party administrator. The insurer retains the right to
22 15 continuing access to the third-party administrator's books and
22 16 records sufficient to permit the insurer to fulfill all of its
22 17 contractual obligations to insured persons, subject to any
22 18 restrictions in the written agreement between the insurer and
22 19 third-party administrator on the proprietary rights of the
22 20 parties in the third-party administrator's books and records.

22 21 Sec. 42. Section 510.15, Code 2005, is amended to read as
22 22 follows:

22 23 510.15 APPROVAL OF ADVERTISING.

22 24 ~~Am~~ A third-party administrator may use only such
22 25 advertising pertaining to the business underwritten by an
22 26 insurer as has been approved by the insurer in advance of its
22 27 use.

22 28 Sec. 43. Section 510.17, Code 2005, is amended to read as
22 29 follows:

22 30 510.17 PREMIUM COLLECTION.

22 31 1. All insurance charges or premiums collected by ~~an~~ a
22 32 third-party administrator on behalf of or for an insurer, and
22 33 return premiums received from the insurer, shall be held by
22 34 the third-party administrator in a fiduciary capacity. Such
22 35 funds shall be immediately remitted to the person or persons
23 1 entitled to them, or shall be deposited promptly in a
23 2 fiduciary bank account established and maintained by the
23 3 third-party administrator. If charges or premiums so
23 4 deposited have been collected on behalf of or for more than
23 5 one insurer, the third-party administrator shall cause the
23 6 bank in which the fiduciary account is maintained to keep
23 7 records clearly recording the deposits in and withdrawals from
23 8 the account on behalf of or for each insurer. The third-party
23 9 administrator shall promptly obtain and keep copies of all
23 10 such records and, upon request of an insurer, shall furnish
23 11 the insurer with copies of the records pertaining to deposits
23 12 and withdrawals on behalf of or for that insurer.

23 13 2. The third-party administrator shall not pay a claim by
23 14 withdrawal from the fiduciary account. Withdrawals from the
23 15 fiduciary account shall be made, as provided in the written
23 16 agreement between the third-party administrator and the
23 17 insurer, for any of the following:

- 23 18 a. Remittance to an insurer entitled thereto.
- 23 19 b. Deposit in an account maintained in the name of the
23 20 insurer.
- 23 21 c. Transfer to and deposit in a claims-paying account,
23 22 with claims to be paid as provided in section 510.18.
- 23 23 d. Payment to a group policyholder for remittance to the
23 24 insurer entitled thereto.
- 23 25 e. Payment to the third-party administrator of its
23 26 commission, fees, or charges.
- 23 27 f. Remittance of return premiums to the persons entitled
23 28 thereto.

23 29 Sec. 44. Section 510.18, Code 2005, is amended to read as
23 30 follows:

23 31 510.18 PAYMENT OF CLAIMS.

23 32 A claim paid by the third-party administrator from funds

23 33 collected on behalf of the insurer shall be paid only on a
23 34 draft, check, or by electronic funds transfer as authorized by
23 35 the insurer.

24 1 Sec. 45. Section 510.19, Code 2005, is amended to read as
24 2 follows:

24 3 510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

24 4 The compensation paid to ~~an a third-party~~ administrator
24 5 shall not be contingent on claim experience on policies for
24 6 which the ~~third-party~~ administrator adjusts or settles claims.
24 7 This section does not prevent the compensation of ~~an a third-~~
24 8 ~~party~~ administrator from being based on premiums or charges
24 9 collected or number of claims paid or processed.

24 10 Sec. 46. Section 510.20, Code 2005, is amended to read as
24 11 follows:

24 12 510.20 NOTIFICATION REQUIRED.

24 13 When the services of ~~an a third-party~~ administrator are
24 14 used, the ~~third-party~~ administrator shall provide a written
24 15 notice, approved by the insurer, to insured individuals,
24 16 advising them of the identity of and relationship among the
24 17 ~~third-party~~ administrator, the policyholder, and the insurer.
24 18 When ~~an a third-party~~ administrator collects funds, it ~~must~~
24 19 ~~shall~~ identify and state separately in writing to the person
24 20 paying to the ~~third-party~~ administrator any charge or premium
24 21 for insurance coverage the amount of any such charge or
24 22 premium specified by the insurer for such insurance coverage.

24 23 Sec. 47. Section 510.21, Code 2005, is amended to read as
24 24 follows:

24 25 510.21 CERTIFICATE OF REGISTRATION REQUIRED.

24 26 A person shall not act as or represent oneself to be ~~an a~~
24 27 ~~third-party~~ administrator in this state, other than an
24 28 adjuster licensed in this state for the kinds of business for
24 29 which the person is acting as ~~an a third-party~~ administrator,
24 30 unless the person holds a current certificate of registration
24 31 as ~~an a third-party~~ administrator issued by the commissioner
24 32 of insurance. A certificate of registration as ~~an a third-~~
24 33 ~~party~~ administrator is renewable every three years. Failure
24 34 to hold a certificate subjects the ~~third-party~~ administrator
24 35 to the sanctions set out in section 507B.7. The certificate
25 1 shall be issued by the commissioner to ~~an a third-party~~
25 2 administrator unless the commissioner, after due notice and
25 3 hearing, determines that the ~~third-party~~ administrator is not
25 4 competent, trustworthy, financially responsible, or of good
25 5 personal and business reputation, or has had a previous
25 6 application for an insurance license denied for cause within
25 7 the preceding five years.

25 8 An application for registration shall be accompanied by a
25 9 filing fee of one hundred dollars. After notice and hearing,
25 10 the commissioner may impose any or all of the sanctions set
25 11 out in section 507B.7, upon finding that either the ~~third-~~
25 12 ~~party~~ administrator violated any of the requirements of
25 13 section 515.134 and sections 510.1A through 510.20 and this
25 14 section, or the ~~third-party~~ administrator is not competent,
25 15 trustworthy, financially responsible, or of good personal and
25 16 business reputation.

25 17 Sec. 48. Section 510.22, subsections 1 and 3, Code 2005,
25 18 are amended to read as follows:

25 19 1. The person acting as ~~an a third-party~~ administrator is
25 20 primarily in a business other than that of a ~~third-party~~
25 21 administrator.

25 22 3. The regular duties being performed as ~~an a third-party~~
25 23 administrator are such that the covered persons are not likely
25 24 to be injured by a waiver of such requirements.

25 25 Sec. 49. Section 510.23, Code 2005, is amended to read as
25 26 follows:

25 27 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
25 28 PRACTICES PROHIBITED.

25 29 ~~An A third-party~~ administrator is subject to chapter 507B
25 30 relating to unfair insurance trade practices.

25 31 Sec. 50. Section 511.8, subsection 1, paragraph b, Code
25 32 2005, is amended to read as follows:

25 33 b. Bonds or other evidences of indebtedness issued,
25 34 assumed, or guaranteed by the United States of America, or by
25 35 any agency or instrumentality of the United States of America
26 1 include investments in an open-end management investment
26 2 company registered with the federal securities and exchange
26 3 commission under the federal Investment Company Act of 1940,
26 4 15 U.S.C. } ~~80(a)~~ ~~80a=1 et seq.~~, and operated in accordance
26 5 with 17 C.F.R. } 270.2a=7, the portfolio of which is limited
26 6 to the United States government obligations described in
26 7 paragraph "a", and which are included in the national
26 8 association of insurance commissioners' securities valuation

26 9 office's United States direct obligations==full faith and
26 10 credit exempt list.

26 11 Sec. 51. Section 511.8, subsection 18, Code 2005, is
26 12 amended by adding the following new paragraph:

26 13 NEW PARAGRAPH. c. Common stocks or shares issued by any
26 14 federal home loan bank under the Federal Home Loan Bank Act,
26 15 12 U.S.C. } 1421 et seq., and the Acts amendatory thereof, are
26 16 eligible if the total investment in those stocks or shares
26 17 does not exceed one-half of one percent of the legal reserve.

26 18 Sec. 52. Section 511.8, subsection 22, paragraph b, Code
26 19 2005, is amended by striking the paragraph and inserting in
26 20 lieu thereof the following:

26 21 b. To be eligible as investments, financial instruments
26 22 used in hedging transactions shall be either of the following:

26 23 (1) Be between an insurer and a counterparty that meets
26 24 the qualifications established in subsection 5 for an issuer,
26 25 obligor, or guarantor of bonds or other evidences of
26 26 indebtedness issued, assumed, or guaranteed by a corporation
26 27 incorporated under the laws of the United States or of any
26 28 state, district, or insular or territorial possession thereof,
26 29 or Canada, or that meets the qualifications established in
26 30 subsection 19 for an issuer, obligor, or guarantor of bonds or
26 31 other evidences of indebtedness issued, assumed, or guaranteed
26 32 by a corporation incorporated under the laws of a foreign
26 33 government other than Canada.

26 34 (2) Be between an insurer and a conduit and be
26 35 collateralized by cash or obligations which are eligible under
27 1 subsection 1, 2, 3, 5, 19, or 24, are deposited with a
27 2 custodian bank as defined in subsection 21, and are held under
27 3 a written agreement with the custodian bank that complies with
27 4 subsection 21 and provides for the proceeds of the collateral,
27 5 subject to the terms and conditions of the applicable
27 6 collateral or other credit support agreement, to be remitted
27 7 to the legal reserve deposit of the company or association and
27 8 to vest in the state in accordance with section 508.18
27 9 whenever proceedings under that section are instituted.

27 10 Paragraphs "c", "d", and "e" of this subsection are not
27 11 applicable to investments in financial instruments used in
27 12 hedging transactions eligible pursuant to this subparagraph.
27 13 As used in this subparagraph, "conduit" means a person within
27 14 an insurer's insurance holding company system, as defined in
27 15 section 521A.1, subsection 5, which aggregates hedging
27 16 transactions by other persons within the insurance holding
27 17 company system and replicates them with counterparties.

27 18 (a) Financial instruments used in hedging transactions
27 19 between an insurer and a conduit which are collateralized by
27 20 obligations eligible under subsection 5, 19, or 24 are
27 21 eligible only to the extent that such securities deposited as
27 22 collateral are not in excess of two percent of the legal
27 23 reserve in the securities of any one corporation, less any
27 24 securities of that corporation owned by the insurer or which
27 25 are the subject of hedging transactions by the insurer, that
27 26 are included in the insurer's legal reserve.

27 27 (b) Financial instruments used in hedging transactions
27 28 between an insurer and a conduit which are collateralized by
27 29 obligations eligible under subsection 5 or by cash equivalents
27 30 eligible under subsection 24, other than a class one money
27 31 market fund, are eligible only to the extent that such
27 32 securities deposited as collateral are not in excess of ten
27 33 percent of the legal reserve, less any obligations eligible
27 34 under subsection 5 or cash equivalents eligible under
27 35 subsection 24, other than a class one money market fund, owned
28 1 by the insurer or which are the subject of hedging
28 2 transactions by the insurer, that are included in the
28 3 insurer's legal reserve.

28 4 (c) Financial instruments used in hedging transactions
28 5 between an insurer and a conduit which are collateralized by
28 6 obligations eligible under subsection 19 are eligible only to
28 7 the extent that such securities deposited as collateral are
28 8 not in excess of twenty percent of the legal reserve, less any
28 9 securities eligible under subsection 19 owned by the insurer
28 10 or which are the subject of hedging transactions by the
28 11 insurer, that are included in the insurer's legal reserve.

28 12 (3) Financial instruments used in hedging transactions
28 13 shall be eligible only as provided by this paragraph "b" and
28 14 rules adopted by the commission pursuant to chapter 17A
28 15 setting standards for hedging transactions between an insurer
28 16 and a conduit as authorized under section 521A.5, subsection
28 17 1, paragraph "b".

28 18 Sec. 53. Section 511.8, subsection 22, paragraph e, Code
28 19 2005, is amended to read as follows:

28 20 e. Investments in financial instruments of foreign
28 21 governments or foreign corporate obligations, other than
28 22 Canada, used in hedging transactions ~~are not eligible in~~
~~28 23 excess of shall be included in the limitation contained in~~
~~28 24 subsection 19 that allows only twenty percent of the legal~~
28 25 reserve, ~~less any foreign investment authorized by subsection~~
~~28 26 19 owned by the company or association and in which its legal~~
~~28 27 reserve is invested of the company or association to be~~
~~28 28 invested in such foreign investments, except insofar as the~~
28 29 financial instruments are collateralized by cash or United
28 30 States government obligations as authorized by subsection 1
28 31 deposited with a custodian bank as defined in subsection 21,
28 32 and held under a written agreement with the custodian bank
28 33 that complies with subsection 21 and provides for the proceeds
28 34 of the collateral, subject to the terms and conditions of the
28 35 applicable collateral or other credit support agreement, to be
29 1 remitted to the legal reserve deposit of the company or
29 2 association and to vest in the state in accordance with
29 3 section 508.18 whenever proceedings under that section are
29 4 instituted.

29 5 This paragraph "e" does not authorize the inclusion of
29 6 financial instruments used in hedging transactions in an
29 7 insurer's legal reserve that are in excess of the eligibility
29 8 limitation provided in paragraph "d" unless the financial
29 9 instruments are collateralized as provided in this paragraph
29 10 "e".

29 11 Sec. 54. Section 511.8, Code 2005, is amended by adding
29 12 the following new subsection:

29 13 NEW SUBSECTION. 24. CASH EQUIVALENTS.

29 14 a. As used in this subsection, unless the context
29 15 otherwise requires:

29 16 (1) "Cash equivalents" means highly liquid investments
29 17 with an original term to maturity of ninety days or less that
29 18 are all of the following:

29 19 (a) Readily convertible to a known amount of cash without
29 20 penalty.

29 21 (b) So near maturity that the investment presents an
29 22 insignificant risk of change in value.

29 23 (c) Rated any of the following:

29 24 (i) "P=1" by Moody's investors services, inc.

29 25 (ii) "A=1" by Standard and Poor's division of McGraw-Hill
29 26 companies, inc., or by the national association of insurance
29 27 commissioners' securities valuation office.

29 28 (iii) Equivalent by a nationally recognized statistical
29 29 rating organization that is recognized by the national
29 30 association of insurance commissioners' securities valuation
29 31 office.

29 32 (2) "Class one money market fund" means investments in an
29 33 open-end management investment company registered with the
29 34 federal securities and exchange commission under the federal
29 35 Investment Company Act of 1940, 15 U.S.C. } 80a=1 et seq., and
30 1 operated in accordance with 17 C.F.R. } 270.2a=7, that
30 2 qualifies for investment using the bond class one reserve
30 3 factor under the purposes and procedures of the national
30 4 association of insurance commissioners' securities valuation
30 5 office.

30 6 b. Cash equivalents include a class one money market fund.

30 7 c. Cash equivalents, other than a class one money market
30 8 fund, are not eligible in excess of two percent of the legal
30 9 reserve in the obligations of any one corporation, and are not
30 10 eligible in excess of ten percent of the legal reserve.

30 11 Sec. 55. Section 512B.25, Code 2005, is amended to read as
30 12 follows:

30 13 512B.25 ANNUAL LICENSE == RENEWAL.

~~30 14 A society which is authorized to transact business in this~~
~~30 15 state on January 1, 1991, and a society licensed on or after~~
~~30 16 January 1, 1991, may continue in business until June 1, 1991.~~

~~30 17 The authority of the a society to transact business in this~~
~~30 18 state may thereafter be renewed annually. A license~~

~~30 19 terminates on the succeeding June 1. However, a license~~

~~30 20 issued shall continue in full force and effect until a new~~

~~30 21 license is issued or specifically refused. A society shall~~

~~30 22 submit annually on or before March 1 a completed application~~

~~30 23 for renewal of its license. For each license or renewal the~~

~~30 24 society shall pay the commissioner a fee of fifty dollars. A~~

~~30 25 society that fails to timely file an application for renewal~~

~~30 26 shall pay an administrative penalty of five hundred dollars to~~

~~30 27 the treasurer of state for deposit in the general fund of the~~

~~30 28 state as provided in section 505.7. A duly certified copy or~~

~~30 29 duplicate of the license is prima facie evidence that the~~

~~30 30 licensee is a fraternal benefit society within the meaning of~~

30 31 this chapter.

30 32 Sec. 56. Section 513C.9, subsection 1, Code 2005, is
30 33 amended by striking the subsection.

30 34 Sec. 57. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY ==
30 35 RENEWAL.

31 1 A certificate of authority of a corporation formed under
31 2 this chapter expires on June 1 succeeding its issue and shall
31 3 be renewed annually so long as the corporation transacts its
31 4 business in accordance with all legal requirements. A
31 5 corporation shall submit annually, on or before March 1, a
31 6 completed application for renewal of its certificate of
31 7 authority. A corporation that fails to timely file an
31 8 application for renewal shall pay an administrative penalty of
31 9 five hundred dollars to the treasurer of state for deposit in
31 10 the general fund of the state as provided in section 505.7. A
31 11 duly certified copy or duplicate of the certificate is
31 12 admissible in evidence for or against the corporation with the
31 13 same effect as the original.

31 14 Sec. 58. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY
31 15 == RENEWAL.

31 16 A certificate of authority of a health maintenance
31 17 organization formed under this chapter expires on June 1
31 18 succeeding its issue and shall be renewed annually so long as
31 19 the organization transacts its business in accordance with all
31 20 legal requirements. A health maintenance organization shall
31 21 submit annually, on or before March 1, a completed application
31 22 for renewal of its certificate of authority. A health
31 23 maintenance organization that fails to timely file an
31 24 application for renewal shall pay an administrative penalty of
31 25 five hundred dollars to the treasurer of state for deposit in
31 26 the general fund of the state as provided in section 505.7. A
31 27 duly certified copy or duplicate of the certificate is
31 28 admissible in evidence for or against the organization with
31 29 the same effect as the original.

31 30 Sec. 59. Section 514B.12, Code 2005, is amended to read as
31 31 follows:

31 32 514B.12 ANNUAL REPORT.

31 33 1. A health maintenance organization shall annually on or
31 34 before the first day of March file with the commissioner or a
31 35 depository designated by the commissioner a report verified by
32 1 at least two of the principal officers of the health
32 2 maintenance organization and covering the preceding calendar
32 3 year. The report shall be on forms prescribed by the
32 4 commissioner and shall include:

32 5 ~~1-~~ a. Financial statements of the organization including
32 6 a balance sheet as of the end of the preceding calendar year
32 7 and statement of profit and loss for the year then ended,
32 8 certified by a certified public accountant or an independent
32 9 public accountant.

32 10 ~~2-~~ b. Any material changes in the information submitted
32 11 pursuant to section 514B.3.

32 12 ~~3-~~ c. The number of persons enrolled during the year, the
32 13 number of enrollees as of the end of the year and the number
32 14 of enrollments terminated during the year.

32 15 ~~4-~~ d. Other information relating to the performance of
32 16 the health maintenance organization as is necessary to enable
32 17 the commissioner to carry out the commissioner's duties under
32 18 this chapter.

32 19 2. ~~The commissioner shall refuse to renew a certificate of~~
32 20 ~~authority of a health maintenance organization that fails to~~
32 21 ~~comply with the provisions of this section and the~~
32 22 ~~organization's right to transact new business in this state~~
32 23 ~~shall immediately cease until the organization has so~~
32 24 ~~complied.~~

32 25 3. ~~A health maintenance organization that fails to timely~~
32 26 ~~file the report required under subsection 1 is in violation of~~
32 27 ~~this section and shall pay an administrative penalty of five~~
32 28 ~~hundred dollars to the treasurer of state for deposit in the~~
32 29 ~~general fund of the state as provided in section 505.7.~~

32 30 4. ~~The commissioner may give notice to a health~~
32 31 ~~maintenance organization that the organization has not timely~~
32 32 ~~filed the report required under subsection 1 and is in~~
32 33 ~~violation of this section. If the organization fails to file~~
32 34 ~~the required report and comply with this section within ten~~
32 35 ~~days of the date of the notice, the organization shall pay an~~
33 1 ~~additional administrative penalty of one hundred dollars for~~
33 2 ~~each day that the failure continues to the treasurer of state~~
33 3 ~~for deposit in the general fund of the state as provided in~~
33 4 ~~section 505.7.~~

33 5 Sec. 60. Section 514B.22, Code 2005, is amended by
33 6 striking the section and inserting in lieu thereof the

33 7 following:

33 8 514B.22 FEES.

33 9 When not otherwise provided, a foreign or domestic health
33 10 maintenance organization doing business in this state shall
33 11 pay the commissioner of insurance the fees as required in
33 12 section 511.24.

33 13 Sec. 61. Section 514B.33, Code 2005, is amended by adding
33 14 the following new subsection:

33 15 NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to
33 16 all foreign and domestic limited service organizations
33 17 authorized to do business in this state.

33 18 Sec. 62. Section 514C.1, Code 2005, is amended to read as
33 19 follows:

33 20 514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN
33 21 CHILDREN.

33 22 1. Any policy of individual or group accident and sickness
33 23 insurance providing coverage on an expense incurred basis, and
33 24 any individual or group hospital or medical service contracts
33 25 issued pursuant to chapters 509, 514, and 514A, which provide
33 26 coverage for a family member of the insured or subscriber
33 27 shall also provide that the health insurance benefits
33 28 applicable for children shall, subject to the enrollment
33 29 requirements of this section, be payable with respect to a
33 30 newly born child of the insured or subscriber from the moment
33 31 of birth, or, in the situation of a newly adopted child of a
33 32 covered person, such child shall be covered from the earlier
33 33 of any of the following:

33 34 a. The date of placement of the child for the purpose of
33 35 adoption and continuing in the same manner as for other
34 1 dependents of the covered person, unless the placement is
34 2 disrupted prior to legal adoption and the child is removed
34 3 from placement.

34 4 b. The date of entry of an order granting the covered
34 5 person custody of the child for purposes of adoption.

34 6 c. The effective date of adoption.

34 7 2. The coverage for adopted or newly born children shall
34 8 consist of coverage for injury or sickness including the
34 9 necessary care and treatment of medically diagnosed congenital
34 10 defects and birth abnormalities and is not subject to any
34 11 preexisting condition exclusion.

34 12 3. If payment of a specific premium or subscription fee is
34 13 required to provide coverage for a newly born child, the
34 14 policy or contract may require that notification of birth of a
34 15 newly born child and payment of the required premium or fees
34 16 must be furnished to the insurer or nonprofit service or
34 17 indemnity corporation within ~~thirty-one~~ sixty days after the
34 18 date of birth ~~in order to have coverage continue beyond such~~
34 19 ~~thirty-one day period.~~

34 20 4. If payment of a specific premium or subscription fee is
34 21 not required to provide coverage for a newly born child, the
34 22 policy or contract may require that notification of birth of a
34 23 newly born child must be furnished to the insurer or nonprofit
34 24 service or indemnity corporation within sixty days after the
34 25 date of birth in order for coverage to be provided for the
34 26 child from the date of birth.

34 27 5. a. If payment of a specific premium or subscription
34 28 fee is required to provide coverage for a newly adopted child
34 29 or child placed for adoption, the policy or contract may
34 30 require that notification of the adoption or placement for
34 31 adoption and payment of the required premium or fees must be
34 32 furnished to the insurer or nonprofit service or indemnity
34 33 corporation within sixty days after the coverage is required
34 34 to begin under this section.

34 35 b. If payment of a specific premium or subscription fee is
35 1 not required to provide coverage for a newly adopted child or
35 2 child placed for adoption, the policy or contract may require
35 3 that notification of the adoption or placement for adoption
35 4 must be furnished to the insurer or nonprofit service or
35 5 indemnity corporation within sixty days after the coverage is
35 6 required to begin under this section.

35 7 c. If a covered person fails to provide the required
35 8 notice or to make payment of premium or subscription fees
35 9 within the sixty-day period required in this subsection, the
35 10 newly adopted child or child placed for adoption shall be
35 11 treated no less favorably by a health carrier than other
35 12 dependents of the covered person, other than newly born
35 13 children, who seek coverage under a policy or contract at a
35 14 time other than the time when the dependent is first eligible
35 15 to apply for coverage.

35 16 Sec. 63. Section 514C.3, Code 2005, is amended to read as
35 17 follows:

35 18 514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS
35 19 INSURANCE POLICIES.

35 20 A policy of accident and sickness insurance issued in this
35 21 state which provides payment or reimbursement for any service
35 22 which is within the lawful scope of practice of a licensed
35 23 dentist shall provide benefits for the service whether the
35 24 service is performed by a licensed physician or a licensed
35 25 dentist. As used in this section, "licensed physician"
35 26 includes persons licensed under chapter 148, 150, or 150A and
35 27 "policy of accident and sickness insurance" includes
35 28 individual policies or contracts issued pursuant to chapter
35 29 514, 514A, or 514B, and group policies as defined in section

35 30 509B.1, ~~subsections subsection 3 and 4.~~

35 31 Sec. 64. Section 514E.7, Code Supplement 2005, is amended
35 32 by adding the following new subsection:

35 33 NEW SUBSECTION. 6. The association is not required to
35 34 make plan coverage available to an individual who is covered
35 35 or is eligible for any continued group coverage under Internal
36 1 Revenue Code } 4980B, the federal Employee Retirement Income
36 2 Security Act of 1974, codified at 29 U.S.C. } 1001 et seq.,
36 3 the federal Public Health Service Act of July 1, 1944,
36 4 codified at 42 U.S.C. } 201 et seq., or any continued group
36 5 coverage required by the state. For purposes of this
36 6 subsection, an individual who would have been eligible for
36 7 such continuation of group coverage, but is not eligible
36 8 solely because the individual or other responsible party
36 9 failed to make the required election of coverage during the
36 10 applicable time period, or terminated such coverage prior to
36 11 the end of such applicable time period, shall be deemed to be
36 12 eligible for such group coverage until the date on which the
36 13 individual's continuing group coverage would have expired had
36 14 an election been made or a termination not occurred.

36 15 Sec. 65. Section 514J.7, Code 2005, is amended by adding
36 16 the following new subsections:

36 17 NEW SUBSECTION. 9. If an enrollee dies before the
36 18 completion of the external review process, the process shall
36 19 continue to completion if there is potential liability of a
36 20 carrier or organized delivery system to the estate of the
36 21 enrollee.

36 22 NEW SUBSECTION. 10. a. If an enrollee who has already
36 23 received a service or treatment under a plan requests external
36 24 review of the plan's coverage decision and changes to another
36 25 plan before the external review process is completed, the
36 26 carrier or organized delivery system whose coverage was in
36 27 effect at the time the service or treatment was received is
36 28 responsible for completing the external review process.

36 29 b. If an enrollee who has not yet received service or
36 30 treatment requests external review of a plan's coverage
36 31 decision and then changes to another plan prior to receipt of
36 32 the service or treatment and completion of the external review
36 33 process, the external review process shall begin anew with the
36 34 enrollee's current carrier or organized delivery system. In
36 35 this instance, the external review process shall be conducted
37 1 in an expedited manner.

37 2 Sec. 66. Section 515.24, Code 2005, is amended to read as
37 3 follows:

37 4 515.24 TAX == COMPUTATION.

37 5 For the purpose of determining the basis of any tax upon
37 6 the "gross amount of premiums", or "gross receipts from
37 7 premiums, assessments, fees, and promissory obligations", now
37 8 or hereafter imposed upon any fire or casualty insurance
37 9 company under any law of this state, such gross amount or
37 10 gross receipts shall consist of the gross written premiums or
37 11 receipts for direct insurance, without including or deducting
37 12 any amounts received or paid for reinsurance except that any
37 13 company reinsuring windstorm or hail risks written by county
37 14 mutual insurance associations shall be required to pay ~~a two~~
37 15 ~~percent tax on as a tax, the applicable percent provided in~~
37 16 ~~section 432.1, calculated upon~~ the gross amount of reinsurance
37 17 premiums received upon such risks, but with such other
37 18 deductions as provided by law, and in addition deducting any
37 19 so-called dividend or return of savings or gains to
37 20 policyholders; provided that as to any deposits or deposit
37 21 premiums received by any such company, the taxable premiums
37 22 shall be the portion of such deposits or deposit premiums
37 23 earned during the year with such deductions therefrom as
37 24 provided by law.

37 25 Sec. 67. Section 515.42, Code 2005, is amended to read as
37 26 follows:

37 27 515.42 TENURE OF CERTIFICATE == RENEWAL == EVIDENCE.

37 28 ~~Such~~ A certificate of authority shall expire on the first

37 29 day of June next succeeding its issue, and shall be renewed
37 30 annually so long as such company shall transact business in
37 31 accordance with the requirements of law; a copy of which
37 32 certificate, when certified to by the commissioner of
37 33 insurance, shall be admissible in evidence for or against a
37 34 company with the same effect as the original. A company shall
37 35 submit annually, on or before March 1, a completed application
38 1 for renewal of its certificate of authority. A company that
38 2 fails to timely file an application for renewal shall pay an
38 3 administrative penalty of five hundred dollars to the
38 4 treasurer of state for deposit in the general fund of the
38 5 state as provided in section 505.7.

38 6 Sec. 68. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

38 7 1. An excess and surplus lines insurance agent that fails
38 8 to timely file the report required in section 515.147 is in
38 9 violation of this section and shall pay an administrative
38 10 penalty of five hundred dollars to the treasurer of state for
38 11 deposit in the general fund of the state as provided in
38 12 section 505.7.

38 13 2. The commissioner shall refuse to renew the license of
38 14 an agent that fails to comply with the provisions of section
38 15 515.147 and this section and the agent's right to transact new
38 16 business in this state shall immediately cease until the agent
38 17 has so complied.

38 18 3. The commissioner may give notice to an agent that the
38 19 agent has not timely filed the report required under section
38 20 515.147 and is in violation of this section. If the agent
38 21 fails to file the required report within ten days of the date
38 22 of the notice, the agent shall pay an additional
38 23 administrative penalty of one hundred dollars for each day
38 24 that the failure continues to the treasurer of state for
38 25 deposit in the general fund of the state as provided in
38 26 section 505.7.

38 27 Sec. 69. Section 515A.6, subsection 1, Code 2005, is
38 28 amended to read as follows:

38 29 1. a. A corporation, an unincorporated association, a
38 30 partnership or an individual, whether located within or
38 31 outside this state, may make application to the commissioner
38 32 for license as a rating organization for such kinds of
38 33 insurance, or subdivision or class of risk or a part or
38 34 combination thereof as are specified in its application and
38 35 shall file ~~therewith (a) a~~ with the application all of the
39 1 following:

39 2 (1) A copy of its constitution, its articles of agreement
39 3 or association or its certificate of incorporation, and of its
39 4 bylaws, rules and regulations governing the conduct of its
39 5 business, ~~(b) a.~~

39 6 (2) A list of its members and subscribers, ~~(c) the.~~

39 7 (3) The name and address of a resident of this state upon
39 8 whom notices or orders of the commissioner or process
39 9 affecting such rating organization may be served ~~and (d) a.~~

39 10 (4) A statement of its qualifications as a rating
39 11 organization.

39 12 b. If the commissioner finds that the applicant is
39 13 competent, trustworthy, and otherwise qualified to act as a
39 14 rating organization and that its constitution, articles of
39 15 agreement or association or certificate of incorporation, and
39 16 its bylaws, rules and regulations governing the conduct of its
39 17 business conform to the requirements of law, the commissioner
39 18 shall issue a license specifying the kinds of insurance, or
39 19 subdivisions or classes of risks or parts or combinations
39 20 thereof for which the applicant is authorized to act as a
39 21 rating organization. Every such application shall be granted
39 22 or denied in whole or in part by the commissioner within sixty
39 23 days of the date of its filing with the commissioner.

39 24 c. Licenses issued pursuant to this section shall remain
39 25 in effect for three years unless sooner suspended or revoked
39 26 by the commissioner. The fee for said license shall be
39 27 twenty-five dollars.

39 28 d. Licenses issued pursuant to this section may be
39 29 suspended or revoked by the commissioner, after hearing upon
39 30 notice, in the event the rating organization ceases to meet
39 31 the requirements of this subsection.

39 32 e. Every rating organization shall notify the commissioner
39 33 promptly of every change in ~~(a) its~~ any of the following:

39 34 (1) Its constitution, its articles of agreement or
39 35 association, or its certificate of incorporation, and its
40 1 bylaws, rules and regulations governing the conduct of its
40 2 business, ~~(b) its.~~

40 3 (2) Its list of members and subscribers ~~and (c) the.~~

40 4 (3) The name and address of the resident of this state

40 5 designated by it upon whom notices or orders of the
40 6 commissioner or process affecting such rating organization may
40 7 be served.

40 8 Sec. 70. Section 515A.9, Code 2005, is amended to read as
40 9 follows:

40 10 515A.9 INFORMATION TO BE FURNISHED INSUREDS == HEARINGS
40 11 AND APPEALS OF INSUREDS.

40 12 Every rating organization and every insurer which makes its
40 13 own rate shall, within a reasonable time after receiving
40 14 written request therefor and upon payment of such reasonable
40 15 charge as it may make, furnish to any insured affected by a
40 16 rate made by it, or to the authorized representative of such
40 17 insured, all pertinent information as to such rate. Every
40 18 rating organization and every insurer which makes its own
40 19 rates shall provide within this state reasonable means whereby
40 20 any person aggrieved by the application of its rating system
40 21 may be heard, in person or by the person's authorized
40 22 representative, on the person's written request to review the
40 23 manner in which such rating system has been applied in
40 24 connection with the insurance afforded the person. Such
40 25 review of the manner in which a rating system has been applied
40 26 is not a contested case under chapter 17A. If the rating

40 27 organization or insurer fails to grant or reject such request
40 28 within thirty days after it is made, applicant may proceed in
40 29 the same manner as if the application had been rejected. Any
40 30 party affected by the action of such rating organization or
40 31 such insurer on such request may, within thirty days after
40 32 written notice of such action, appeal to the commissioner,
40 33 who, after a hearing held upon not less than ten days' written
40 34 notice to the appellant and to such rating organization or
40 35 insurer, may affirm or reverse such action. Such appeal to

41 1 the commissioner of the manner in which a rating system has
41 2 been applied is not a contested case under chapter 17A.

41 3 Sec. 71. Section 515A.10, subsection 2, Code 2005, is
41 4 amended to read as follows:

41 5 2. Every advisory organization shall file with the
41 6 commissioner ~~(a) a~~ all of the following:

41 7 a. A copy of its constitution, its articles of agreement
41 8 or association or its certificate of incorporation and of its
41 9 bylaws, rules and regulations governing its activities, ~~(b) a.~~

41 10 b. A list of its members, ~~(c) the.~~

41 11 c. The name and address of a resident of this state upon
41 12 whom notices or orders of the commissioner or process issued
41 13 at the commissioner's direction may be served, ~~and (d) an.~~

41 14 d. An agreement that the commissioner may examine such
41 15 advisory organization in accordance with the provisions of
41 16 section 515A.12.

41 17 Sec. 72. NEW SECTION. 515E.3A FOREIGN RISK RETENTION
41 18 GROUP MAY BECOME DOMESTIC.

41 19 1. A risk retention group that is organized under the laws
41 20 of any other state for the purpose of writing insurance, as
41 21 authorized by this chapter, may redomesticate to this state by
41 22 doing all of the following:

41 23 a. Complying with section 490.902.

41 24 b. Complying with all of the requirements of law relative
41 25 to the organization and licensing of a domestic risk retention
41 26 group and the capital and surplus requirement set forth in
41 27 subsection 4.

41 28 c. Designating its principal place of business in this
41 29 state.

41 30 2. A risk retention group that meets the requirements of
41 31 subsection 1 shall be entitled to a certificate of its
41 32 corporate existence and a license to transact business in this
41 33 state, and be subject in all respects to the authority and
41 34 jurisdiction of this state.

41 35 3. The certificate of authority, producer appointments and
42 1 licenses, rates, and other items which are in existence at the
42 2 time a risk retention group transfers its corporate domicile
42 3 to this state pursuant to this section shall continue in full
42 4 force and effect upon such transfer. For purposes of existing
42 5 authorizations and all other corporate purposes, the risk
42 6 retention group is deemed to be the same entity as it was
42 7 prior to the transfer of its domicile. All outstanding
42 8 policies of any transferring risk retention group shall remain
42 9 in full force and effect.

42 10 4. A risk retention group redomesticating to this state
42 11 pursuant to this chapter shall comply with the minimum capital
42 12 and surplus requirements of chapter 521E or five million
42 13 dollars, whichever is greater. If the risk retention group's
42 14 prior domestic regulator allowed the use of letters of credit
42 15 to meet that regulator's surplus requirements, the risk

42 16 retention group may continue to use the letters of credit to
42 17 meet this state's minimum surplus requirements for up to five
42 18 years from the date of redomestication in this state. The
42 19 risk retention group shall eliminate a minimum of twenty
42 20 percent of the letters of credit being used each year based
42 21 upon the aggregate amount of letters of credit being used to
42 22 meet surplus requirements at the time of redomestication in
42 23 this state.

42 24 5. Letters of credit used by a risk retention group to
42 25 meet surplus requirements shall be clean, irrevocable, and
42 26 unconditionally issued or confirmed by a qualified United
42 27 States financial institution as defined in section 521B.4,
42 28 subsection 2. The beneficiary of each letter of credit being
42 29 used shall be the commissioner.

42 30 6. If a risk retention group redomesticating to this state
42 31 fails to comply with the provisions of this section, the
42 32 commissioner shall take action as prescribed in chapter 507C.

42 33 7. The commissioner shall adopt rules pursuant to chapter
42 34 17A to implement this section.

42 35 Sec. 73. Section 515F.4, subsection 5, Code 2005, is
43 1 amended to read as follows:

43 2 5. The rates may contain a provision for contingencies and
43 3 an allowance permitting a reasonable profit. In determining
43 4 the reasonableness of the profit, consideration shall be given
43 5 to investment income attributable to unearned premium and loss
43 6 reserves. ~~Income from other sources shall not be considered.~~

43 7 Sec. 74. Section 515G.1, Code 2005, is amended by adding
43 8 the following new subsections:

43 9 NEW SUBSECTION. 2A. "Eligible policyholder" means a
43 10 policyholder who had a policy in force with a mutual insurer
43 11 at any time during the three-year period immediately preceding
43 12 the date of the adoption of a plan of conversion by the mutual
43 13 insurer's board of directors, including the date of adoption
43 14 of the plan of conversion, and who, therefore, is eligible to
43 15 receive an equitable share of the remaining statutory surplus
43 16 of the mutual insurer, after provision for the base value for
43 17 voting policyholders, as a result of the conversion.

43 18 NEW SUBSECTION. 5. "Voting policyholder" means a
43 19 policyholder who had a policy in force as provided in section
43 20 515G.4.

43 21 Sec. 75. Section 515G.2, Code 2005, is amended to read as
43 22 follows:

43 23 515G.2 MUTUAL INSURER BECOMING STOCK COMPANY ==
43 24 AUTHORIZATION.

43 25 1. A mutual insurer may become a stock insurance company
43 26 pursuant to a plan of conversion established and approved in
43 27 the manner provided by this chapter. The plan of conversion
43 28 shall be adopted by the board of directors of the insurer to
43 29 become effective on a future stated date.

43 30 2. A plan of conversion may provide that a mutual
43 31 insurance company may convert into a domestic stock insurance
43 32 company, convert and merge, or convert and consolidate with a
43 33 domestic stock insurance company, as provided in chapter 490
43 34 or chapter 491, whichever is applicable. However, a mutual
43 35 insurance company is not required to comply with sections
44 1 490.1102 and 490.1104 or sections 491.102 through 491.105
44 2 relating to approval of merger or consolidation plans by
44 3 boards of directors and shareholders.

44 4 3. If conversion from a mutual insurer to a stock company
44 5 is to be undertaken by a transaction which would be governed
44 6 by chapter 521 or 521A, but the plan of conversion adopted by
44 7 the board of directors of the insurer includes approval of an
44 8 acquisition of control, merger, consolidation, or reinsurance,
44 9 then chapter 521 or 521A shall not be applicable to the
44 10 transaction. However, in that case, the commissioner may
44 11 require any information from the person or persons acquiring
44 12 control of the insurer as could be required under chapter 521
44 13 or 521A, and may disapprove the transaction on any basis on
44 14 which it could be disapproved under chapter 521 or 521A.

44 15 Sec. 76. Section 515G.3, subsection 3, Code 2005, is
44 16 amended to read as follows:

44 17 3. The manner and basis of exchanging the ~~equitable share~~
44 18 ~~of each mutual policyholder with a policy in force as provided~~
44 19 ~~in section 515G.4 for securities or other consideration, or~~
44 20 ~~both, of the stock corporation or an affiliate into which the~~
44 21 ~~mutual insurer is to be converted and the disposition of any~~
44 22 ~~unclaimed shares. The plan shall also provide that each~~
44 23 ~~person who had a policy of insurance in effect on the date of~~
44 24 ~~adoption of the plan is entitled to receive in exchange for an~~
44 25 ~~equitable share, without additional payment, consideration~~
44 26 ~~payable in voting common shares of the insurer, or other~~

~~44 27 consideration, or both. The equitable share of the~~
~~44 28 policyholder in the mutual insurer may include a rights of~~
~~44 29 each voting policyholder and each eligible policyholder of the~~
~~44 30 mutual insurer to be converted to a stock company pursuant to~~
~~44 31 this chapter. Such exchange may include a base value for each~~
~~44 32 voting policyholder in recognition of the voting~~
~~44 33 policyholder's voting rights as a mutual policyholder as well~~
~~44 34 as consideration to be provided to each eligible policyholder~~
~~44 35 in exchange for the eligible policyholder's rights as a mutual~~
~~45 1 policyholder of the mutual insurer to be converted. After~~
~~45 2 determining the base value for to be provided to each voting~~
~~45 3 policyholder in recognition of the voting rights of the voting~~
~~45 4 policyholder and the balance of such, the equitable share of~~
~~45 5 its each eligible policyholder in the remaining statutory~~
~~45 6 surplus of the mutual insurer, plus any adjustments for~~
~~45 7 nonadmitted assets or additional value permitted by the~~
~~45 8 commissioner, to be provided to each eligible policyholder~~
~~45 9 shall be determined by the ratio which the net earned premiums~~
~~45 10 the eligible policyholder has properly and timely paid to the~~
~~45 11 mutual insurer on insurance policies in effect during the~~
~~45 12 three years three-year period immediately preceding the~~
~~45 13 adoption of the plan of conversion, including the date of the~~
~~45 14 adoption of the plan of conversion, bears to the total net~~
~~45 15 earned premiums received by the mutual insurer from all~~
~~45 16 eligible policyholders during that three-year period. The~~
~~45 17 base value to be provided to each voting policyholder in~~
~~45 18 recognition of voting rights and the equitable share of each~~
~~45 19 eligible policyholder may be exchanged, without additional~~
~~45 20 payment, for securities or other consideration, or both, of~~
~~45 21 the stock corporation or an affiliate into which the mutual~~
~~45 22 insurer is to be converted. If the base value for each voting~~
~~45 23 policyholder or the equitable share of the each eligible~~
~~45 24 policyholder entitles the policyholder to the purchase of a~~
~~45 25 fractional share of stock, the policyholder has the option to~~
~~45 26 receive the value of the fractional share in cash or purchase~~
~~45 27 a full share by paying the balance in cash. However,~~
~~45 28 policyholders due a de minimus amount, as established by the~~
~~45 29 commissioner, need not be offered the value of the fractional~~
~~45 30 share or the option to purchase a full share. The plan shall~~
~~45 31 also provide for the disposition of any unclaimed shares.~~

45 32 Sec. 77. Section 516E.1, Code Supplement 2005, is amended
45 33 by adding the following new subsections:

45 34 NEW SUBSECTION. 2A. "Financial institution" means an
45 35 institution that is all of the following:

46 1 a. Organized or, in the case of the office of a foreign
46 2 banking organization located in the United States, licensed,
46 3 under the laws of the United States or any state, and granted
46 4 authority to operate with fiduciary powers.

46 5 b. Regulated, supervised, and examined by federal or state
46 6 authorities empowered to regulate banks and trust companies.

46 7 NEW SUBSECTION. 5A. "Premium" means the consideration
46 8 paid to an insurer for a reimbursement insurance policy.

46 9 NEW SUBSECTION. 9A. "Service company fee" means the
46 10 consideration paid for a service contract.

46 11 Sec. 78. Section 516E.1, subsection 8, Code Supplement
46 12 2005, is amended to read as follows:

46 13 8. "Reimbursement insurance policy" means a contractual
46 14 liability insurance policy of insurance issued to a service
46 15 company and pursuant to which the insurer agrees, for the
46 16 benefit of the service contract holders, to discharge all of
46 17 the obligations and liabilities of the service company under
46 18 the terms of service contracts issued by the service company
46 19 in the event of nonperformance by the service company. For
46 20 the purposes of this definition, "all obligations and
46 21 liabilities" include, but are not limited to, failure of the
46 22 service company to perform under the service contract and the
46 23 return of the unearned service company fee in the event of the
46 24 service company's unwillingness or inability to reimburse the
46 25 unearned service company fee in the event of termination of a
46 26 service contract that either provides reimbursement to a
46 27 service company under the terms of insured service contracts
46 28 issued or sold by the service company, or, in the event of
46 29 nonperformance by the service company, pays, on behalf of the
46 30 service company, all covered contractual obligations incurred
46 31 by the service company under the terms of the insured service
46 32 contracts issued or sold by the service company.

46 33 Sec. 79. Section 516E.2, subsection 3, Code Supplement
46 34 2005, is amended to read as follows:

46 35 3. In order to assure the faithful performance of a
47 1 service company's obligations to its service contract holders,
47 2 the administrator may by rule require service contracts shall

47 3 be secured by a reimbursement insurance policy in compliance
47 4 with the requirements set forth in section 516E.4 or the
47 5 service company shall comply with the financial responsibility
47 6 and security standards set forth in section 516E.21.
47 7 Sec. 80. Section 516E.2, subsection 4, paragraph f, Code
47 8 Supplement 2005, is amended by striking the paragraph.
47 9 Sec. 81. Section 516E.3, subsection 1, paragraph a, Code
47 10 Supplement 2005, is amended to read as follows:
47 11 a. A service contract shall not be issued, sold, or
47 12 offered for sale in this state unless a true and correct copy
47 13 of the service contract, and the service company's
47 14 reimbursement insurance policy, if applicable, have been filed
47 15 with the commissioner by the service company.
47 16 Sec. 82. Section 516E.3, subsection 2, paragraph b, Code
47 17 Supplement 2005, is amended to read as follows:
47 18 b. A provider shall file a consent to service of process
47 19 on the commissioner, a notice with the name and ownership of
47 20 the provider, and such other information as the commissioner
47 21 requires, annually with the commissioner no later than August
47 22 1. If August 1 falls on a weekend or a holiday, the date for
47 23 filing shall be the next business day. In addition to the
47 24 annual filing, the provider shall promptly file copies of any
47 25 amended documents if material amendments have been made in the
47 26 materials on file with the commissioner. If an annual filing
47 27 is made after August 1 and sales have occurred during the
47 28 period when the provider was in noncompliance with this
47 29 section, the commissioner shall assess an additional filing
47 30 fee that is two times the amount normally required for an
47 31 annual filing. A fee shall not be charged for interim filings
47 32 made to keep the materials filed with the division current and
47 33 accurate. The annual filing shall be accompanied by a filing
47 34 fee in the amount of one hundred dollars.
47 35 Sec. 83. Section 516E.4, subsection 1, Code Supplement
48 1 2005, is amended by striking the subsection and inserting in
48 2 lieu thereof the following:
48 3 1. REQUIREMENTS. A reimbursement insurance policy
48 4 insuring a service contract issued, sold, or offered for sale
48 5 in this state shall provide for all of the following:
48 6 a. The reimbursement insurance policy shall, in the event
48 7 of the service company's failure to perform under the service
48 8 contract or otherwise, either reimburse or pay on behalf of
48 9 the service company any covered amounts that the service
48 10 company is legally obligated to pay under the service
48 11 contract, including the return of any unearned service company
48 12 fee owed by the service company to the service contract
48 13 holder.
48 14 b. An insurer that issues a reimbursement insurance policy
48 15 shall assume full responsibility for the administration of
48 16 claims made pursuant to a service contract in the event that
48 17 the service company is unable to do so.
48 18 c. If a service covered under a service contract is not
48 19 provided by the service company within sixty days of proof of
48 20 loss by the service contract holder, the service contract
48 21 holder is entitled to apply directly against the reimbursement
48 22 insurance policy of the service company.
48 23 Sec. 84. Section 516E.4, Code Supplement 2005, is amended
48 24 by adding the following new subsections:
48 25 NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service
48 26 company secures its service contracts with a reimbursement
48 27 insurance policy, the reimbursement insurance policy shall
48 28 insure one hundred percent of the obligations of all service
48 29 contracts sold by the service company.
48 30 NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer
48 31 issuing a reimbursement insurance policy under this chapter
48 32 shall be authorized, registered, or otherwise permitted to
48 33 transact business in this state, or shall be an excess and
48 34 surplus lines insurer authorized, registered, or otherwise
48 35 permitted to transact business in this state, and shall meet
49 1 one of the following requirements:
49 2 a. At the time the policy is filed with the commissioner,
49 3 and continuously thereafter, the insurer maintains surplus as
49 4 to policyholders and paid-in capital of at least fifteen
49 5 million dollars and annually files copies of the insurer's
49 6 financial statements, national association of insurance
49 7 commissioners annual statement, and actuarial certification,
49 8 if required and filed in the insurer's state of domicile.
49 9 b. At the time the policy is filed with the commissioner
49 10 and continuously thereafter, the insurer does all of the
49 11 following:
49 12 (1) Maintains surplus as to policyholders and paid-in
49 13 capital of less than fifteen million dollars but at least ten

49 14 million dollars.

49 15 (2) Demonstrates to the satisfaction of the commissioner
49 16 that the insurer maintains a ratio of net written premiums,
49 17 wherever written, to surplus as to policyholders and paid-in
49 18 capital of not greater than three to one.

49 19 (3) Files copies annually of the insurer's financial
49 20 statements, national association of insurance commissioners
49 21 annual statement, and actuarial certification, if required and
49 22 filed in the insurer's state of domicile.

49 23 Sec. 85. Section 516E.5, subsection 1, Code Supplement
49 24 2005, is amended to read as follows:

49 25 1. a. A service contract insured by a reimbursement
49 26 insurance policy shall not be issued, sold, or offered for
49 27 sale in this state unless the contract conspicuously states
49 28 that the obligations of the service company to the service
49 29 contract holder are guaranteed under a reimbursement insurance
49 30 policy, including a statement in substantially the following
49 31 form:

49 32 "Obligations of the service company under this service
49 33 contract are guaranteed under a reimbursement insurance
49 34 policy. If the service company fails to pay or provide
49 35 service on a claim within sixty days after proof of loss has
50 1 been filed with the service company, the service contract
50 2 holder is entitled to make a claim directly against the
50 3 reimbursement insurance policy."

50 4 b. A claim against a reimbursement insurance policy shall
50 5 also include a claim for return of the unearned ~~consideration~~
50 6 ~~service company fee paid for the service contract in excess of~~
50 7 ~~the premium paid.~~ A service contract shall conspicuously
50 8 state the name and address of the issuer of the reimbursement
50 9 insurance policy for that service contract.

50 10 c. A service contract issued, sold, or offered for sale in
50 11 this state that is not insured under a reimbursement insurance
50 12 policy shall contain a statement in substantially the
50 13 following form:

50 14 "Obligations of the service company under this service
50 15 contract are backed by the full faith and credit of the
50 16 service company."

50 17 Sec. 86. Section 516E.5, subsection 2, paragraphs a and b,
50 18 Code Supplement 2005, are amended to read as follows:

50 19 a. Clearly and conspicuously states the name and address
50 20 of the service company, ~~and~~ describes the service company's
50 21 obligations to perform services or to arrange for the
50 22 performance of services under the service contract, ~~and states~~
50 23 ~~that the obligations of the service company to the service~~
50 24 ~~contract holder are guaranteed under a reimbursement insurance~~
50 25 ~~policy.~~

50 26 b. Clearly and conspicuously states the name and address
50 27 of the issuer of the reimbursement insurance policy, if
50 28 applicable.

50 29 Sec. 87. Section 516E.9, Code Supplement 2005, is amended
50 30 to read as follows:

50 31 516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

50 32 A service company shall not represent or imply in any
50 33 manner that the service company has been sponsored,
50 34 recommended, or approved or that the service company's
50 35 abilities or qualifications have in any respect been passed
51 1 upon by the state of Iowa, including the commissioner, the
51 2 insurance division, or the division's securities and regulated
51 3 industries bureau.

51 4 Sec. 88. Section 516E.15, subsection 1, paragraph b, Code
51 5 Supplement 2005, is amended to read as follows:

51 6 b. A provider, ~~or service company, or third-party~~
51 7 ~~administrator~~ that fails to file documents and information
51 8 with the commissioner as required pursuant to section 516E.3
51 9 may be subject to a civil penalty. The amount of the civil
51 10 penalty shall not be more than four hundred dollars plus two
51 11 dollars for each service contract that the person executed
51 12 prior to satisfying the filing requirement. However, a person
51 13 who fails to file information regarding a change in the name
51 14 or the termination of the business of a provider, ~~or service~~
51 15 ~~company, or third-party administrator~~ as required pursuant to
51 16 section 516E.3 is subject to a civil penalty of not more than
51 17 five hundred dollars.

51 18 Sec. 89. NEW SECTION. 516E.20 APPLICATION OF INSURANCE
51 19 LAWS.

51 20 The sale of a service contract under this chapter shall not
51 21 be deemed to include the sale of insurance. Unless a service
51 22 company, third-party administrator, or provider is otherwise
51 23 engaged in the sale of insurance, the insurance laws of this
51 24 state are not applicable to the service company, third-party

51 25 administrator, or provider of such a service contract.

51 26 Sec. 90. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY
51 27 AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE
51 28 POLICY.

51 29 1. In lieu of obtaining a reimbursement insurance policy
51 30 as provided in section 516E.2, subsection 3, a service company
51 31 may secure its service contracts by maintaining a funded
51 32 reserve account which complies with all of the following:

51 33 a. The reserve account shall be in a custodial account at
51 34 a financial institution that is dedicated to the service
51 35 company's outstanding obligations under service contracts
52 1 issued and outstanding in this state.

52 2 b. The reserve account shall comply with rules adopted by
52 3 the commissioner pursuant to chapter 17A establishing
52 4 requirements for reserve accounts, reserve account agreements,
52 5 or the method of valuing marketable securities as necessary to
52 6 protect holders of service contracts issued and outstanding in
52 7 this state. The commissioner may require amendments to
52 8 reserve account agreements that are not in compliance with the
52 9 provisions of this section.

52 10 c. The reserve account shall not be an amount that is less
52 11 than forty percent of the gross consideration received, less
52 12 claims paid, on the sale of service contracts issued and
52 13 outstanding by the service company in this state.

52 14 d. The reserve account shall be subject to examination and
52 15 review by the commissioner or a designee on the premises of
52 16 the financial institution where the account is located and the
52 17 financial institution shall, upon request, produce documents
52 18 or records as necessary to allow the commissioner or a
52 19 designee to verify the value and safety of the assets of the
52 20 reserve account.

52 21 2. The service company shall annually provide the
52 22 commissioner with one of the following:

52 23 a. A copy of the service company's financial statements.

52 24 b. If the service company's financial statements are
52 25 consolidated with those of its parent company, a copy of the
52 26 parent company's most recent form 10-K or form 20-F filed with
52 27 the federal securities and exchange commission within the last
52 28 calendar year, or if the parent company does not file with the
52 29 federal securities and exchange commission, a copy of the
52 30 parent company's audited financial statements showing a net
52 31 worth of at least one hundred million dollars. If the service
52 32 company's financial statements are consolidated with those of
52 33 its parent company, the service company shall also provide a
52 34 copy of a written agreement by the parent company guaranteeing
52 35 the obligations of the service company under service contracts
53 1 issued and outstanding by the service company in this state.

53 2 3. If a service contract company secures its contracts by
53 3 maintaining a funded reserve account as provided in subsection
53 4 1 but does not have or maintain a minimum net worth or
53 5 stockholders equity of one hundred million dollars or more,
53 6 the service company shall also meet one of the following
53 7 requirements:

53 8 a. Maintain a security deposit trust fund which complies
53 9 with all of the following:

53 10 (1) The security deposit trust fund shall be in an account
53 11 at a financial institution.

53 12 (2) The security deposit trust fund shall be held,
53 13 invested, and administered for the benefit and protection of
53 14 service contract holders in this state in the event of
53 15 nonperformance of the service contract by the service company.

53 16 (3) The security deposit trust fund shall comply with
53 17 rules adopted by the commissioner pursuant to chapter 17A,
53 18 establishing the form, terms, and conditions of security
53 19 deposit trust fund agreements established pursuant to this
53 20 paragraph "a".

53 21 (4) The security deposit trust fund shall be subject to
53 22 recovery by any service contract holder sustaining actionable
53 23 injury due to the failure of the service company to perform
53 24 its obligations under the service contract. A holder of a
53 25 service contract issued in this state may, in the event of
53 26 nonperformance by the service company, maintain an action and
53 27 file a claim against the security deposit trust fund
53 28 maintained by the service company.

53 29 (5) The security deposit trust fund shall not be
53 30 commingled with other funds of the service company.

53 31 (6) The security deposit trust fund shall have a value of
53 32 not less than five percent of the gross consideration received
53 33 by the service company, less claims paid, for the sale of all
53 34 service contracts issued and in force in this state, but not
53 35 less than twenty-five thousand dollars, and consists of one or

54 1 more of the following:

54 2 (a) Cash.

54 3 (b) Securities of the type eligible for deposit by
54 4 insurers authorized to transact business in this state.

54 5 (c) Certificates of deposit.

54 6 (d) Another form of security as prescribed by the
54 7 commissioner by rule.

54 8 b. File a surety bond with the commissioner that is issued
54 9 by a surety company authorized to do business in this state,
54 10 and that complies with all of the following:

54 11 (1) The surety bond is conditioned upon the service
54 12 company's faithful performance of service contracts subject to
54 13 this chapter.

54 14 (2) The surety bond is for the benefit of and subject to
54 15 recovery by any service contract holder sustaining actionable
54 16 injury due to the failure of the service company to perform
54 17 its obligations under a service contract. The surety's
54 18 liability shall extend to all service contracts issued by the
54 19 service company and outstanding in this state. A holder of a
54 20 service contract issued in this state may, in the event of
54 21 nonperformance of the contract by the service company,
54 22 maintain an action and file a claim against the surety bond
54 23 filed by the service company.

54 24 (3) The surety bond is for an amount that is not less than
54 25 five percent of the gross consideration received by the
54 26 service company, less claims paid, for the sale of all service
54 27 contracts issued and in force in this state, but not less than
54 28 twenty-five thousand dollars.

54 29 (4) The surety bond cannot be canceled by the surety
54 30 except upon written notice of cancellation by the surety to
54 31 the commissioner by restricted certified mail, and not prior
54 32 to the expiration of sixty days after receipt of the notice by
54 33 the commissioner.

54 34 Sec. 91. Section 518.15, Code 2005, is amended to read as
54 35 follows:

55 1 518.15 REPORTS, ~~AND~~ EXAMINATIONS, ~~AND~~ RENEWALS.

55 2 1. The president or the vice president and secretary of
55 3 each association authorized to do business under this chapter
55 4 shall annually before the first day of March prepare under
55 5 oath and file with the commissioner of insurance a full, true
55 6 and complete statement of the condition of such association on
55 7 the last day of the preceding year. The commissioner of
55 8 insurance shall prescribe the report forms and shall determine
55 9 the information and data to be reported.

55 10 2. Such associations shall pay the same expenses of any
55 11 examination made or ordered to be made by the commissioner of
55 12 insurance and the same fees for the annual reports and annual
55 13 certificates of authority as are required to be paid by
55 14 domestic companies organized and doing business under chapter
55 15 515, ~~which certificates shall expire June 1 of the year~~
55 16 ~~following the date of issue.~~

55 17 3. ~~A certificate of authority of an association formed~~
55 18 ~~under this chapter expires on June 1 succeeding its issue and~~
55 19 ~~shall be renewed annually so long as the association transacts~~
55 20 ~~its business in accordance with all legal requirements. An~~
55 21 ~~association shall submit annually, on or before March 1, a~~
55 22 ~~completed application for renewal of its certificate of~~
55 23 ~~authority.~~

55 24 4. ~~The commissioner shall refuse to renew the certificate~~
55 25 ~~of authority of an association that fails to comply with the~~
55 26 ~~provisions of this chapter.~~

55 27 5. ~~An association formed under this chapter that fails to~~
55 28 ~~timely file the statement required under subsection 1 or the~~
55 29 ~~application for renewal required under subsection 3 is in~~
55 30 ~~violation of this section and shall pay an administrative~~
55 31 ~~penalty of five hundred dollars to the treasurer of state for~~
55 32 ~~deposit in the general fund of the state as provided in~~
55 33 ~~section 505.7. The association's right to transact new~~
55 34 ~~business in this state shall immediately cease until the~~
55 35 ~~association has fully complied with this chapter.~~

56 1 6. ~~The commissioner may give notice to an association that~~
56 2 ~~the association has not timely filed the statement required~~
56 3 ~~under subsection 1 or an application for renewal under~~
56 4 ~~subsection 3 and is in violation of this section. If the~~
56 5 ~~association fails to file the required statement or~~
56 6 ~~application and comply with this section within ten days of~~
56 7 ~~the date of the notice, the association shall pay an~~
56 8 ~~additional administrative penalty of one hundred dollars for~~
56 9 ~~each day that the failure continues to the treasurer of state~~
56 10 ~~for deposit in the general fund of the state as provided in~~
56 11 ~~section 505.7.~~

56 12 Sec. 92. Section 518A.18, Code 2005, is amended to read as
56 13 follows:

56 14 518A.18 ANNUAL REPORT == PENALTIES.

56 15 1. An association doing business under this chapter, on or
56 16 before March 1 of each year, shall prepare under oath and file
56 17 with the commissioner of insurance an accurate and complete
56 18 statement of the condition of the association as of the last
56 19 day of the preceding calendar year. The statement shall
56 20 conform to the annual statement blank prepared pursuant to
56 21 instructions prescribed by the commissioner. All financial
56 22 information reflected in the annual report shall be kept and
56 23 prepared pursuant to accounting practices and procedures
56 24 prescribed by the commissioner. Statements filed with the
56 25 commissioner pursuant to this section shall be tabulated and
56 26 published by the commissioner of insurance in the annual
56 27 report of insurance.

56 28 2. An association that fails to timely file the statement
56 29 required under subsection 1 is in violation of this section
56 30 and shall pay an administrative penalty of five hundred
56 31 dollars for each violation to the treasurer of state for
56 32 deposit in the general fund of the state as provided in
56 33 section 505.7.

56 34 3. The commissioner may give notice to an association that
56 35 the association has not timely filed the statement required
57 1 under subsection 1 and is in violation of this section. If
57 2 the association fails to file the required statement and
57 3 comply with this section within ten days of the date of the
57 4 notice, the association shall pay an additional administrative
57 5 penalty of one hundred dollars for each day that each failure
57 6 continues to the treasurer of state for deposit in the general
57 7 fund of the state as provided in section 505.7.

57 8 4. The association's right to transact new business in
57 9 this state shall immediately cease until the association has
57 10 fully complied with this chapter.

57 11 Sec. 93. Section 518A.35, subsection 1, Code 2005, is
57 12 amended to read as follows:

57 13 1. A state mutual insurance association doing business
57 14 under this chapter shall on or before the first day of March,
57 15 each year, pay to the director of revenue, or a depository
57 16 designated by the director, a sum equivalent to the applicable
57 17 percent of the gross receipts from premiums and fees for
57 18 business done within the state, including all insurance upon
57 19 property situated in the state without including or deducting
57 20 any amounts received or paid for reinsurance. However, a
57 21 company reinsuring windstorm or hail risks written by county
57 22 mutual insurance associations is required to pay the
57 23 applicable percent tax on the gross amount of reinsurance
57 24 premiums ~~received~~ written upon such risks, but after deducting
57 25 the amount returned upon canceled policies and rejected
57 26 applications covering property situated within the state, and
57 27 dividends returned to policyholders on property situated
57 28 within the state. For purposes of this section, "applicable
57 29 percent" means the same as specified in section 432.1,
57 30 subsection 4.

57 31 Sec. 94. Section 518A.40, Code 2005, is amended to read as
57 32 follows:

57 33 518A.40 ANNUAL FEES == RENEWALS == PENALTIES.

57 34 1. Such associations shall pay the same fees for annual
57 35 reports and annual certificates of authority as are required
58 1 to be paid by domestic companies organized and doing business
58 2 under chapter 515, which certificates shall expire May 1 of
58 3 the year following the date of issue.

58 4 2. A certificate of authority of an association formed
58 5 under this chapter shall be renewed annually so long as the
58 6 organization transacts its business in accordance with all
58 7 legal requirements. Such an association shall submit
58 8 annually, on or before March 1, a completed application for
58 9 renewal of its certificate of authority.

58 10 3. The commissioner shall refuse to renew the certificate
58 11 of authority of a state mutual insurance association that
58 12 fails to comply with the provisions of this chapter and the
58 13 association's right to transact new business in this state
58 14 shall immediately cease until the association has so complied.

58 15 4. An association that fails to timely file the
58 16 application for renewal required under subsection 2 is in
58 17 violation of this section and shall pay an administrative
58 18 penalty of five hundred dollars to the treasurer of state for
58 19 deposit in the general fund of the state as provided in
58 20 section 505.7.

58 21 Sec. 95. Section 518C.17, Code 2005, is amended to read as
58 22 follows:

58 23 518C.17 ACTIONS AGAINST THE ASSOCIATION.

58 24 An action against the association shall be brought against
58 25 it in the association's own name and only in the Polk county
58 26 district court. Service of original notice in an action
58 27 against the association ~~may~~ shall be made on any officer of
58 28 the association or upon the commissioner of insurance on its
58 29 behalf. The commissioner shall promptly transmit any notice
58 30 served upon the commissioner to the association.

58 31 Sec. 96. Section 520.10, Code 2005, is amended to read as
58 32 follows:

58 33 520.10 ANNUAL REPORT == EXAMINATION == PENALTIES.

58 34 1. Such attorney shall, within the time limited for filing
58 35 the annual statement by insurance companies transacting the
59 1 same kind of business, make a report, under oath, to the
59 2 commissioner of insurance for each calendar year, showing the
59 3 financial condition of affairs at the office where such
59 4 contracts are issued and shall, at any and all times, furnish
59 5 such additional information and reports as may be required;
59 6 provided, however, that the attorney shall not be required to
59 7 furnish the names and addresses of any subscribers except in
59 8 case of an unpaid final judgment. The business affairs,
59 9 records, and assets of any such organization shall be subject
59 10 to examination by the commissioner of insurance at any
59 11 reasonable time, and such examination shall be at the expense
59 12 of the organization examined.

59 13 2. A certificate of authority of a reciprocal or
59 14 interinsurance insurer authorized under this chapter shall be
59 15 renewed annually in accordance with section 520.12 so long as
59 16 the insurer transacts its business in accordance with all
59 17 legal requirements.

59 18 3. The commissioner shall refuse to renew the certificate
59 19 of authority of a reciprocal or interinsurance insurer that
59 20 fails to comply with the provisions of this chapter and the
59 21 insurer's right to transact new business in this state shall
59 22 immediately cease until the insurer has so complied.

59 23 4. A reciprocal or interinsurance insurer that fails to
59 24 timely file the report required under subsection 1 is in
59 25 violation of this section and shall pay an administrative
59 26 penalty of five hundred dollars to the treasurer of state for
59 27 deposit in the general fund of the state as provided in
59 28 section 505.7.

59 29 5. The commissioner may give notice to a reciprocal or
59 30 interinsurance insurer that the insurer has not timely filed
59 31 the report required under subsection 1 and is in violation of
59 32 this section. If the insurer fails to file the required
59 33 report and comply with this section within ten days of the
59 34 date of the notice, the insurer shall pay an additional
59 35 administrative penalty of one hundred dollars for each day
60 1 that the failure continues to the treasurer of state for
60 2 deposit in the general fund of the state as provided in
60 3 section 505.7.

60 4 Sec. 97. Section 520.12, Code 2005, is amended to read as
60 5 follows:

60 6 520.12 CERTIFICATE OF AUTHORITY == RENEWAL == PENALTIES.

60 7 1. Upon compliance with the requirements of this chapter,
60 8 the commissioner of insurance shall issue a certificate of
60 9 authority or a license to the attorney, authorizing the
60 10 attorney to make such contracts of insurance, which license
60 11 shall specify the kind or kinds of insurance and shall contain
60 12 the name of the attorney, the location of the principal office
60 13 and the name or designation under which such contracts of
60 14 insurance are issued. The certificate of authority shall
60 15 expire on the first day of June next succeeding its issue, and
60 16 shall be renewed annually as long as the company transacts
60 17 business in accordance with the requirements of law. A copy
60 18 of the certificate, when certified by the commissioner of
60 19 insurance, shall be admissible in evidence for or against a
60 20 company with the same effect as the original.

60 21 2. A reciprocal or interinsurance insurer shall submit
60 22 annually, on or before March 1, a completed application for
60 23 renewal of the insurer's certificate of authority. An insurer
60 24 that fails to timely file an application for renewal shall pay
60 25 an administrative fee of five hundred dollars to the treasurer
60 26 of state for deposit in the general fund of the state as
60 27 provided in section 505.7.

60 28 Sec. 98. Section 521.1, Code 2005, is amended to read as
60 29 follows:

60 30 521.1 DEFINITIONS.

60 31 For the purposes of this chapter:

60 32 1. "Affected company" or "affected mutual company" means
60 33 the company being merged with and into the surviving company.

60 34 2. "Commission" means the commission created in section
60 35 521.5.

61 1 3. "Commissioner" means the commissioner of insurance.

61 2 4. "Company" or "companies" when used in this chapter
61 3 means a company or association organized under chapter 508,
61 4 511, 515, 518, 518A, or 520, and includes a mutual insurance
61 5 holding company organized pursuant to section 521A.14.

61 6 Sec. 99. Section 521.2, Code 2005, is amended to read as
61 7 follows:

61 8 521.2 LIFE COMPANIES == CONSOLIDATION, MERGER, AND
61 9 REINSURANCE.

61 10 1. One or more domestic mutual insurance companies
61 11 organized under chapter 491 may merge or consolidate with a
61 12 domestic or foreign mutual insurance company as provided in
61 13 this chapter. Sections 491.101 through 491.105 shall not be
61 14 applicable to a merger or consolidation of a domestic mutual
61 15 insurance company pursuant to this chapter.

61 16 2. One or more domestic insurance companies organized
61 17 under chapter 490 may merge with a domestic or foreign
61 18 insurance company as provided in chapter 490 with the approval
61 19 of the commission pursuant to this chapter.

61 20 3. The provisions of this chapter shall not be applicable
61 21 to the merger or consolidation of a domestic mutual company
61 22 with a stock company pursuant to chapter 508B or chapter 515G.

61 23 4. A domestic mutual insurance company organized under the
61 24 laws of this state to do the business of life insurance,
61 25 either on the stock, mutual, stipulated premium, or assessment
61 26 plan, shall not consolidate with any other company or reinsure
61 27 its risks, or any part of such risks, with any other company,
61 28 or assume or reinsure the whole or any part of the risks of
61 29 any other company, except as provided in this chapter.

61 30 However, this chapter shall not be construed to prevent any
61 31 company, as defined in section 521.1, from reinsuring a
61 32 fractional part of any single risk.

61 33 Sec. 100. Section 521.3, Code 2005, is amended by striking
61 34 the section and inserting in lieu thereof the following:

61 35 521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER
62 1 OF INSURANCE.

62 2 Any company proposing to consolidate, merge, or enter into
62 3 any reinsurance contract with another company shall file a
62 4 plan and an application in support of the plan with the
62 5 commissioner. The plan shall set forth the terms of the
62 6 proposed contract of consolidation, merger, or reinsurance,
62 7 along with any other information requested by the
62 8 commissioner.

62 9 Sec. 101. Section 521.4, Code 2005, is amended by striking
62 10 the section and inserting in lieu thereof the following:

62 11 521.4 PROCEDURE == NOTICE.

62 12 The commission may hear and determine an application, and
62 13 approve, disapprove, or require modification of a plan
62 14 submitted under section 521.3 without notice and without
62 15 public hearing. The commission may require a public hearing
62 16 when necessary to conserve the interests of the members,
62 17 policyholders, or shareholders of the affected company. In
62 18 such cases the commission shall require the affected company
62 19 to mail to all of its members, policyholders, or shareholders
62 20 written notice of the public hearing stating that an
62 21 application and plan have been filed with the commission, the
62 22 nature of the plan, and the date, time, and place of the
62 23 public hearing on the application and plan. The commission
62 24 shall determine the number of days prior to the public hearing
62 25 that notice is required to be given to the members or
62 26 shareholders, which shall be no fewer than ten nor more than
62 27 sixty days.

62 28 Sec. 102. Section 521.5, Code 2005, is amended to read as
62 29 follows:

62 30 521.5 COMMISSION TO HEAR PETITION CREATED.

62 31 For the purpose of hearing and determining such petition, a
62 32 A commission consisting of the commissioner of insurance and
62 33 the attorney general is hereby created to hear and determine
62 34 the application and to approve, disapprove, or require
62 35 modification of the plan prior to approval.

63 1 Sec. 103. Section 521.6, Code 2005, is amended to read as
63 2 follows:

63 3 521.6 EXAMINATION.

63 4 The commission may make such examination into examine the
63 5 affairs and condition of any company or companies as it may
63 6 deem deems proper, and shall have the power to summon and
63 7 compel the attendance and testimony of witnesses, and the
63 8 production of books and papers before said the commission and
63 9 may administer oaths.

63 10 Sec. 104. Section 521.7, Code 2005, is amended to read as
63 11 follows:

63 12 521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR
63 13 SHAREHOLDERS.

63 14 When notice ~~shall have been~~ is given as ~~above~~ provided in
63 15 ~~section 521.4~~, any ~~member, policyholder, or stockholder~~
63 16 ~~shareholder~~ of ~~said the affected~~ company or ~~companies~~ shall
63 17 have the right to appear before ~~said the~~ commission and be
63 18 heard with reference to ~~said petition regarding the~~
63 19 ~~application and plan.~~

63 20 Sec. 105. Section 521.8, Code 2005, is amended to read as
63 21 follows:

63 22 521.8 AUTHORIZATION.

63 23 ~~Said The~~ commission, if satisfied that the interests of the
63 24 ~~members, policyholders, or shareholders of said the affected~~
63 25 ~~company or companies~~ are properly protected and no reasonable
63 26 objection to ~~said petition the application and plan~~ exists,
63 27 may ~~authorize approve, disapprove, or require modification of~~
63 28 ~~the proposed plan of consolidation, merger, or reinsurance or~~
63 29 ~~may direct such modification thereof as may seem to it best~~
63 30 ~~for the interests of the policyholders; and said prior to~~
63 31 ~~approval. The~~ commission may make such order and disposition
63 32 of the assets of any such company thereafter remaining as
63 33 shall be just and equitable.

63 34 Sec. 106. Section 521.10, Code 2005, is amended by
63 35 striking the section and inserting in lieu thereof the
64 1 following:

64 2 521.10 ELECTION CALLED.

64 3 1. The commission may require an affected company to
64 4 submit the plan of consolidation, merger, or reinsurance to a
64 5 vote by its members. The plan shall be submitted at a meeting
64 6 called for that purpose, upon not less than thirty days'
64 7 notice. Member approval of the plan requires the affirmative
64 8 vote of two-thirds of all members voting in person, by ballot,
64 9 or by proxy.

64 10 2. Approval by the members of a mutual company of a plan
64 11 of merger or reinsurance is not required if all of the
64 12 following conditions are satisfied:

64 13 a. The company will survive the merger or is the
64 14 reinsurer.

64 15 b. At the time of the merger or reinsurance, the number of
64 16 members of the surviving company is greater than the number of
64 17 members of the affected company.

64 18 c. At the time of the merger or reinsurance, the surplus
64 19 of the surviving company is greater than the surplus of the
64 20 affected company.

64 21 Sec. 107. Section 521.13, Code 2005, is amended by
64 22 striking the section and inserting in lieu thereof the
64 23 following:

64 24 521.13 REINSURANCE TRANSACTIONS == EXEMPTION.

64 25 Reinsurance as provided in sections 515.49, 518.17,
64 26 518A.44, and 520.21 is exempt from the requirements of this
64 27 chapter.

64 28 Sec. 108. Section 521.14, Code 2005, is amended to read as
64 29 follows:

64 30 521.14 EXPENSES AND COSTS == HOW PAID.

64 31 All expenses and costs incident to proceedings under ~~the~~
64 32 ~~provisions of this chapter,~~ shall be paid by the company or
64 33 ~~companies bringing filing the petition application and plan.~~

64 34 Sec. 109. Section 521.16, Code 2005, is amended to read as
64 35 follows:

65 1 521.16 APPLICABILITY OF CHAPTER SECTION 521A.3.

65 2 ~~Chapter 521A is The provisions of section 521A.3 shall also~~
65 3 ~~be applicable to a merger or consolidation made pursuant~~
65 4 ~~subject to this chapter, and the provisions of chapter 521A~~
65 5 ~~and this chapter shall apply exclusively with respect to such~~
65 6 ~~merger or consolidation.~~

65 7 Sec. 110. NEW SECTION. 521.17 ADDITIONAL FILING
65 8 REQUIREMENTS == PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

65 9 A company filing a plan to merge or consolidate shall, in
65 10 addition to and after meeting the requirements of this
65 11 chapter, make all appropriate filings with and pay appropriate
65 12 fees to the secretary of state required under chapter 490 or
65 13 491.

65 14 Sec. 111. NEW SECTION. 521.18 ARTICLES OF MERGER OR
65 15 CONSOLIDATION == FILING FEES AND APPROVAL.

65 16 A company filing a plan to merge or consolidate under the
65 17 provisions of this chapter shall file its articles of merger
65 18 or consolidation with the commission for its approval. The
65 19 fee for filing articles of merger or consolidation with the
65 20 commission is fifty dollars.

65 21 Sec. 112. Section 521A.1, subsection 6, Code 2005, is
65 22 amended to read as follows:
65 23 6. "Insurer" means a company qualified and licensed by the
65 24 insurance division to transact the business of insurance in
65 25 this state by certificate issued pursuant to chapters 508,
65 26 512B, 514, 514B, 515, 515E, and 520, except that it shall not
65 27 include+
65 28 ~~a. Agencies agencies, authorities, or instrumentalities of~~
65 29 the United States, its possessions and territories, the
65 30 commonwealth of Puerto Rico, the District of Columbia, or a
65 31 state or political subdivision of a state.
65 32 ~~b. Fraternal benefit societies.~~
65 33 ~~c. Nonprofit medical, hospital or dental service~~
65 34 ~~associations.~~

65 35 Sec. 113. Section 521A.2, subsection 1, paragraph c, Code
66 1 2005, is amended to read as follows:
66 2 c. Investing, reinvesting, or trading in securities and
66 3 financial instruments as defined in section 511.8, subsection
66 4 22, for its own account, that of its parent, any subsidiary of
66 5 its parent, or any affiliate or subsidiary.

66 6 Sec. 114. Section 521A.2, subsection 3, Code 2005, is
66 7 amended by adding the following new paragraph:
66 8 NEW PARAGRAPH. d. Invest, reinvest, and trade in
66 9 financial instruments as defined in section 511.8, subsection
66 10 22, for its own account, that of its parent, any subsidiary of
66 11 its parent, or any affiliate or subsidiary.

66 12 Sec. 115. NEW SECTION. 522B.16B WRITTEN CONSENT TO
66 13 ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.
66 14 1. A person who is prohibited by 18 U.S.C. } 1033 from
66 15 engaging or participating in the business of insurance because
66 16 that person has been convicted of a crime under that statute
66 17 or of a felony involving dishonesty or breach of trust may
66 18 apply to the commissioner for written consent to engage or
66 19 participate in the business of insurance in this state.
66 20 2. The commissioner, by rule, shall establish a procedure
66 21 and standards for issuing such a written consent.

66 22 3. The commissioner shall not issue an insurance producer
66 23 license to an applicant who has been convicted of a crime as
66 24 set forth in subsection 1 unless the applicant has first
66 25 obtained a written consent from the commissioner to engage or
66 26 participate in the business of insurance in this state.
66 27 4. The commissioner shall not renew or issue an insurance
66 28 producer license to an insurance producer licensee who has
66 29 been convicted of a crime as set forth in subsection 1, unless
66 30 that licensee has first obtained a written consent from the
66 31 commissioner to engage or participate in the business of
66 32 insurance in this state.

66 33 Sec. 116. Section 523A.601, subsection 1, paragraph i,
66 34 Code 2005, is amended to read as follows:
66 35 i. Include an explanation of regulatory oversight by the
67 1 insurance division in twelve point boldface type, in
67 2 substantially the following language:
67 3 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
67 4 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT
67 5 ~~(...)~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS
67 6 SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED
67 7 INDUSTRIES BUREAU, (STREET ADDRESS), (CITY) 330 MAPLE STREET,
67 8 DES MOINES, IOWA (ZIP CODE) 50319.

67 9 Sec. 117. Section 523A.602, subsection 2, paragraph b,
67 10 Code 2005, is amended by adding the following new
67 11 subparagraph:
67 12 NEW SUBPARAGRAPH. (1A) If a purchase agreement is
67 13 canceled before the purchase price is paid in full, a
67 14 purchaser requests a transfer of the trust assets upon
67 15 cancellation of a purchase agreement before the purchase price
67 16 is paid in full, or another establishment provides cemetery
67 17 merchandise, funeral merchandise, funeral services, or a
67 18 combination thereof, designated in a purchase agreement before
67 19 the purchase price is paid in full, the seller shall refund or
67 20 transfer within thirty days of receiving a written demand no
67 21 less than the amount paid by the purchaser, less any actual
67 22 expenses incurred by the seller pursuant to the purchase
67 23 agreement as set forth in the purchase agreement under section
67 24 523A.601, subsection 1, paragraph "f". The amount of the
67 25 actual expenses deducted by the seller shall not exceed ten
67 26 percent of the total original purchase price of the applicable
67 27 cemetery merchandise, funeral merchandise, funeral services,
67 28 or a combination thereof. The seller may also deduct the
67 29 value of the cemetery merchandise, funeral merchandise, and
67 30 funeral services already received by, delivered to, or
67 31 warehoused for the purchaser.

67 32 Sec. 118. Section 523I.102, Code Supplement 2005, is
67 33 amended by adding the following new subsection:
67 34 NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery
67 35 that is owned or operated by the state of Iowa or by the
68 1 United States for the burial of veterans.

68 2 Sec. 119. Section 523I.103, subsection 1, paragraph a,
68 3 Code Supplement 2005, is amended to read as follows:

68 4 a. All cemeteries, except religious cemeteries that
68 5 commenced business prior to July 1, 2005, and veterans
68 6 cemeteries.

68 7 Sec. 120. Section 523I.201, subsection 1, Code Supplement
68 8 2005, is amended to read as follows:

68 9 1. This chapter shall be administered by the commissioner.
68 10 The deputy administrator appointed pursuant to section
68 11 ~~523A.801~~ 502.601 shall be the principal operations officer
68 12 responsible to the commissioner for the routine administration
68 13 of this chapter and management of the administrative staff.
68 14 In the absence of the commissioner, whether because of vacancy
68 15 in the office due to absence, physical disability, or other
68 16 cause, the deputy administrator shall, for the time being,
68 17 have and exercise the authority conferred upon the
68 18 commissioner. The commissioner may by order from time to time
68 19 delegate to the deputy administrator any or all of the
68 20 functions assigned to the commissioner in this chapter. The
68 21 deputy administrator shall employ officers, attorneys,
68 22 accountants, and other employees as needed for administering
68 23 this chapter.

68 24 Sec. 121. Section 523I.309, subsection 1, Code Supplement
68 25 2005, is amended to read as follows:

68 26 1. Any available member of the following classes of
68 27 persons, in the priority listed, shall have the right to
68 28 control the interment, relocation, or disinterment of a
68 29 decedent's remains within or from a cemetery:

68 30 ~~a. The attorney in fact of the decedent pursuant to a~~
68 31 ~~durable power of attorney for health care.~~

68 32 ~~b. a. The surviving spouse of the decedent, if not~~
68 33 ~~legally separated from the decedent.~~

68 34 ~~c. b. The decedent's surviving adult children. If there~~
68 35 ~~is more than one surviving adult child, any adult child who~~
69 1 ~~can confirm, in writing, that all other adult children have~~
69 2 ~~been notified of the proposed interment, relocation, or~~
69 3 ~~disinterment may authorize the interment, relocation, or~~
69 4 ~~disinterment, unless the cemetery receives an objection to~~
69 5 ~~such action from another adult child of the decedent.~~
69 6 Alternatively, a majority of the surviving adult children of
69 7 the decedent whose whereabouts are reasonably ascertainable
69 8 shall have such right to control.

69 9 ~~d. c. A The surviving parent parents of the decedent~~
69 10 ~~whose whereabouts are reasonably ascertainable.~~

69 11 d. A surviving adult grandchild of the decedent. If there
69 12 is more than one surviving adult grandchild, any adult
69 13 grandchild who can confirm, in writing, that all other adult
69 14 grandchildren have been notified of the proposed interment,
69 15 relocation, or disinterment may authorize the interment,
69 16 relocation, or disinterment, unless the cemetery receives an
69 17 objection to such action from another adult grandchild of the
69 18 decedent. Alternatively, a majority of the surviving adult
69 19 grandchildren of the decedent whose whereabouts are reasonably
69 20 ascertainable shall have such right to control.

69 21 e. A surviving adult sibling of the decedent. If there is
69 22 more than one surviving adult sibling, any adult sibling who
69 23 can confirm, in writing, that all other adult siblings have
69 24 been notified of the proposed interment, relocation, or
69 25 disinterment may authorize the interment, relocation, or
69 26 disinterment, unless the cemetery receives an objection to
69 27 such action from another adult sibling of the decedent.
69 28 Alternatively, a majority of the surviving adult siblings of
69 29 the decedent whose whereabouts are reasonably ascertainable
69 30 shall have such right to control.

69 31 f. A surviving grandparent of the decedent. If there is
69 32 more than one surviving grandparent, any grandparent who can
69 33 confirm, in writing, that all other grandparents have been
69 34 notified of the proposed interment, relocation, or
69 35 disinterment may authorize the interment, relocation, or
70 1 disinterment, unless the cemetery receives an objection to
70 2 such action from another grandparent of the decedent.
70 3 Alternatively, a majority of the surviving grandparents of the
70 4 decedent whose whereabouts are reasonably ascertainable shall
70 5 have such right to control.

70 6 g. The legal guardian of the decedent at the time of the
70 7 decedent's death. An adult person in the next degree of

70 8 kinship to the decedent in the order named by law to inherit
70 9 the estate of the decedent under the rules of inheritance for
70 10 intestate succession.

70 11 h. The county medical examiner, if responsible for the
70 12 decedent's remains.

70 13 A cemetery may await a court order before proceeding with
70 14 the interment, relocation, or disinterment of a decedent's
70 15 remains within or from a cemetery if the cemetery is aware of
70 16 a dispute between an authorized person under this section and
70 17 the executor named in the decedent's will or a personal
70 18 representative appointed by a court, or is aware of a dispute
70 19 among authorized persons with the same priority under this
70 20 subsection.

70 21 Sec. 122. Section 523I.312, subsection 2, paragraph n,
70 22 Code Supplement 2005, is amended by striking the paragraph and
70 23 inserting in lieu thereof the following:

70 24 n. Include an explanation of regulatory oversight by the
70 25 insurance division in twelve point boldface type, in
70 26 substantially the following language:

70 27 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
70 28 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH
70 29 INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES
70 30 OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND
70 31 REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES,
70 32 IOWA 50319.

70 33 Sec. 123. Section 523I.316, subsection 3, Code Supplement
70 34 2005, is amended to read as follows:

70 35 3. DUTY TO PRESERVE AND PROTECT.

71 1 a. A governmental subdivision having a cemetery, or a
71 2 burial site that is not located within a dedicated cemetery,
71 3 within its jurisdiction, for which preservation is not
71 4 otherwise provided, shall preserve and protect the cemetery or
71 5 burial site as necessary to restore or maintain its physical
71 6 integrity as a cemetery or burial site. The governmental
71 7 subdivision may enter into ~~an~~ a written agreement to delegate
71 8 the responsibility for the preservation and protection of the
71 9 cemetery or burial site to ~~a~~ the owner of the property on
71 10 which the cemetery or burial site is located or to a public or
71 11 private organization interested in historical preservation.
71 12 The governmental subdivision shall not enter into an agreement
71 13 with a public or private organization to preserve and protect
71 14 the cemetery or burial site unless the property owner has been
71 15 offered the opportunity to enter into such an agreement and
71 16 has declined to do so.

71 17 b. A governmental subdivision is authorized to expend
71 18 public funds, in any manner authorized by law, in connection
71 19 with such a cemetery or burial site.

71 20 c. If a governmental subdivision proposes to enter into an
71 21 agreement with a public or private organization pursuant to
71 22 this subsection to preserve and protect a cemetery or burial
71 23 site that is located on property owned by another person
71 24 within the jurisdiction of the governmental subdivision, the
71 25 proposed agreement shall be written, and the governmental
71 26 subdivision shall provide written notice by ordinary mail of
71 27 the proposed agreement to the property owner at least fourteen
71 28 days prior to the date of the meeting at which such proposed
71 29 agreement will be authorized. The notice shall include the
71 30 location of the cemetery or burial site and a copy of the
71 31 proposed agreement, and explain that the property owner is
71 32 required to permit members of the public or private
71 33 organization reasonable ingress and egress for the purposes of
71 34 preserving and protecting the cemetery or burial site pursuant
71 35 to the proposed agreement. The notice shall also include the
72 1 date, time, and place of the meeting and a statement that the
72 2 property owner has a right to attend the meeting and to
72 3 comment regarding the proposed agreement.

72 4 d. Subject to chapter 670, a governmental subdivision that
72 5 enters into an agreement with a public or private organization
72 6 pursuant to this subsection is liable for any personal injury
72 7 or property damage that occurs in connection with the
72 8 preservation or protection of the cemetery or burial site or
72 9 access to the cemetery or burial site by the governmental
72 10 subdivision or the public or private organization.

72 11 For the purposes of this paragraph, "liable" means
72 12 liability for every civil wrong which results in wrongful
72 13 death or injury to a person or injury to property or injury to
72 14 personal or property rights and includes but is not restricted
72 15 to actions based upon negligence; error or omission; nuisance;
72 16 breach of duty, whether statutory or other duty; or denial or
72 17 impairment of any right under any constitutional provision,
72 18 statute, or rule of law.

72 19 e. A property owner who is required to permit members of a
72 20 public or private organization reasonable ingress and egress
72 21 for the purpose or preserving or protecting a cemetery or
72 22 burial site on that owner's property and who acts in good
72 23 faith and in a reasonable manner pursuant to this subsection
72 24 is not liable for any personal injury or property damage that
72 25 occurs in connection with the preservation or protection of
72 26 the cemetery or burial site or access to the cemetery or
72 27 burial site.

72 28 f. For the purposes of this subsection, reasonable ingress
72 29 and egress to a cemetery or burial site shall include the
72 30 following:

72 31 (1) A member of a public or private organization that has
72 32 entered into a written agreement with the governmental
72 33 subdivision who desires to visit such a cemetery or burial
72 34 site shall give the property owner at least ten days' written
72 35 notice of the intended visit.

73 1 (2) If the property owner cannot provide reasonable access
73 2 to the cemetery or burial site on the desired date, the
73 3 property owner shall provide reasonable alternative dates when
73 4 the property owner can provide access to the member.

73 5 (3) A property owner is not required to make any
73 6 improvements to that person's property to satisfy the
73 7 requirement to provide reasonable access to a cemetery or
73 8 burial site pursuant to this subsection.

73 9 Sec. 124. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC
73 10 ACCESS.

73 11 A cemetery shall provide or permit public access to the
73 12 cemetery, at reasonable times and subject to reasonable
73 13 regulations, so that owners of interment rights and other
73 14 members of the public have reasonable ingress and egress to
73 15 the cemetery.

73 16 Sec. 125. Section 523I.508, subsection 4, Code Supplement
73 17 2005, is amended to read as follows:

73 18 4. DELEGATES TO CONVENTIONS. A township having one or
73 19 more cemeteries under its control may designate, ~~not up to~~
73 20 ~~exceed~~ two, officials from each cemetery as delegates to
73 21 attend meetings of cemetery officials, and certain expenses,
73 22 ~~including association dues, of the delegates not to exceed~~
73 23 exceeding twenty-five dollars for each delegate, of the
73 24 delegates including association dues, may be paid out of the
73 25 cemetery fund of the township.

73 26 Sec. 126. Section 616.15, Code 2005, is amended to read as
73 27 follows:

73 28 616.15 SURETY COMPANIES.

73 29 1. Suit may be brought against any company or corporation
73 30 furnishing or pretending to furnish surety, fidelity, or other
73 31 bonds in this state, in any county in which the principal
73 32 place of business of such company or corporation is maintained
73 33 in this state, or in any county wherein is maintained its
73 34 general office for the transaction of its Iowa business, or in
73 35 the county where the principal resides at the time of bringing
74 1 suit, or in the county where the principal did reside at the
74 2 time the bond or other undertaking was executed; and in the
74 3 case of bonds furnished by any such company or corporation for
74 4 any building or improvement, either public or private, action
74 5 may be brought in the county wherein said building or
74 6 improvement, or any part thereof is located.

74 7 2. The secretary of state shall serve as the agent for
74 8 service of process with the purposes of 31 U.S.C. } 9306, of
74 9 any surety company or corporation for a surety bond written by
74 10 that surety company or corporation for the federal government
74 11 and issued in this state as required or permitted under
74 12 federal law, if the surety company or corporation is licensed
74 13 in this state and cannot be otherwise served with process.
74 14 Notwithstanding section 507.14, upon request of the secretary
74 15 of state, the commissioner of insurance shall provide the
74 16 secretary of state with the name and address of the person
74 17 designated for consent to service of process by the surety
74 18 company or corporation which is on file with the commissioner.

74 19 Sec. 127. Sections 509B.4, 521.9, 521.11, and 521.12, Code
74 20 2005, are repealed.

74 21 Sec. 128. Section 516E.17, Code Supplement 2005, is
74 22 repealed.

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JEFFREY M. LAMBERTI
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2364, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor